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<p>UNITED STATES DISTRICT COURT EASTERN DISTRICT OF NEW YORK</p> <p>----- X EDWARD CARTER, FRANK FIORILLO,) KEVIN LAMM, JOSEPH NOFI, and) THOMAS SNYDER,) Plaintiffs,) -against-) Index No. CV 07 1215</p> <p>INCORPORATED VILLAGE OF OCEAN BEACH; MAYOR JOSEPH C. LOEFFLER, JR., individually) and in his Official capacity;) former mayor NATALIE K. ROGERS,) individually and in her) official capacity; OCEAN BEACH) POLICE DEPARTMENT; ACTING) DEPUTY POLICE CHIEF GEORGE B.) HESSE, individually and in his) official capacity; SUFFOLK) COUNTY; SUFFOLK COUNTY POLICE) DEPARTMENT OF CIVIL SERVICE;) and ALLISON SANCHEZ,) individually and in her) official capacity,) Defendants.) ----- X DEPOSITION OF GEORGE HESSE Uniondale, New York June 3, 2009</p> <p>Reported by: Judi Johnson, RPR, CRR, CLR Job No.: 23057</p>	<p>1 GEORGE HESSE 2 APPEARANCES: 3 THOMPSON WIGDOR & GILLY, LLP 4 Attorneys for the Plaintiffs 5 85 Fifth Avenue 6 New York, New York 10003 7 8 BY: ANDREW S. GOODSTADT, ESQ. 9 ARIEL GRAFF, ESQ. 10 11 MARKS, O'NEILL, O'BRIEN & COURTNEY, P.C. 12 Attorneys for GEORGE B. HESSE 13 530 Saw Mill Road 14 Elmsford, New York 10523 15 16 BY: KEVIN W. CONNOLLY, ESQ. 17 18 RIVKIN RADLER, LLP 19 Attorneys for INCORPORATED VILLAGE OF OCEAN BEACH, 20 JOSEPH LOEFFLER, NATALIE ROGERS AND OCEAN BEACH 21 POLICE DEPARTMENT 22 926 RexCorp Plaza 23 Uniondale, New York 11556-0926 24 25 BY: KENNETH A. NOVIKOFF, ESQ. MICHAEL WELCH, ESQ.</p>
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<p>1 2 926 RexCorp Plaza Uniondale, New York 3 4 June 3, 2009 10:00 A.M. 5 6 7 8 9 10 11 12 13 Deposition of GEORGE HESSE, held at 14 the offices of RIVKIN RADLER, LLP, 926 15 RexCorp Plaza, Uniondale, New York, pursuant 16 to Notice, before Judi Johnson, a Registered 17 Professional Reporter, a Certified Realtime 18 Reporter, a Certified LiveNote Reporter and 19 Notary Public of the State of New York. 20 21 22 23 24 25</p>	<p>1 GEORGE HESSE 2 3 4 5 BEE READY FISHBEIN HATTER & DONOVAN, LLP 6 Attorneys for SUFFOLK COUNTY 7 170 Old Country Road 8 Mineola, New York 11501 9 10 BY: KENNETH A. GRAY (A.M. SESSION ONLY) 11 12 13 SUFFOLK COUNTY DEPARTMENT OF LAW 14 Attorneys for the County 15 100 Veterans Memorial Highway 16 Hauppauge, New York 11788 17 18 BY: BRIAN P. CALLAHAN, ESQ. 19 20 ALSO PRESENT: 21 STEVE SAN PIETRO - LEGAL VIDEO SPECIALIST 22 FRANK FIORILLO 23 KEVIN LAMM - AM SESSION ONLY 24 ED CARTER - AM SESSION ONLY 25 TOM SNYDER</p>

<p style="text-align: right;">Page 5</p> <p>1 GEORGE HESSE</p> <p>2 IT IS HEREBY STIPULATED AND AGREED by</p> <p>3 and between the attorneys for the respective</p> <p>4 parties herein, that filing and sealing and</p> <p>5 the same are hereby waived.</p> <p>6 IT IS FURTHER STIPULATED AND AGREED</p> <p>7 that all objections, except as to the form</p> <p>8 of the question, shall be reserved to the</p> <p>9 time of the trial.</p> <p>10 IT IS FURTHER STIPULATED AND AGREED</p> <p>11 that the within deposition may be sworn to</p> <p>12 and signed before any officer authorized to</p> <p>13 administer an oath, with the same force and</p> <p>14 effect as if signed and sworn to before the</p> <p>15 Court.</p> <p>16 - oOo -</p>	<p style="text-align: right;">Page 7</p> <p>1 GEORGE HESSE</p> <p>2 MR. GOODSTADT: Andrew Goodstadt, 10:04:50AM</p> <p>3 Thompson Wigdor & Gilly, on behalf of the</p> <p>4 plaintiffs. And with me is Ariel Graff,</p> <p>5 G-R-A-F-F, from my office.</p> <p>6 MR. CONNOLLY: Kevin W. Connolly of 10:05:05AM</p> <p>7 Marks, O'Neil, O'Brien & Courtney, counsel</p> <p>8 for the defendant Hesse.</p> <p>9 MR. NOVIKOFF: Ken Novikoff, Rivkin 10:05:12AM</p> <p>10 Radler, on behalf of all the village</p> <p>11 defendants and Mayor Rogers, Mayor Loeffler</p> <p>12 in their official and individual capacities.</p> <p>13 With me is Michael Welch from my office.</p> <p>14 MR. CALLAHAN: Brian Callahan from the 10:05:23AM</p> <p>15 office of Christine Malafi for the County of</p> <p>16 Suffolk, Suffolk County PD and Allison</p> <p>17 Sanchez.</p> <p>18 EXAMINATION 10:05:30AM</p> <p>19 BY MR. GOODSTADT: 10:05:36AM</p> <p>20 Q Good morning, Mr. Hesse. 10:05:41AM</p> <p>21 A Good morning. 10:05:42AM</p> <p>22 Q My name is Andrew Goodstadt Thompson. 10:05:43AM</p> <p>23 I'm an attorney at the law firm of Thompson,</p> <p>24 Wigdor & Gilly, and my firm represents the</p> <p>25 plaintiffs in this matter, Frank Fiorillo, Ed</p>
<p style="text-align: right;">Page 6</p> <p>1 GEORGE HESSE</p> <p>2 GEORGE HESSE,</p> <p>3 Called as a witness herein, having</p> <p>4 first been duly sworn, was examined and</p> <p>5 testified as follows:</p> <p>6 BY THE REPORTER:</p> <p>7 Q Please state your name and address for</p> <p>8 the record.</p> <p>9 A George Hesse, 623 Bay Walk, P.O. Box</p> <p>10 425, Ocean Beach, New York 11770.</p> <p>11 THE VIDEOGRAPHER: This is the start 10:04:10AM</p> <p>12 of the tape labeled Number 1 of the</p> <p>13 videotaped deposition of George Hesse in the</p> <p>14 matter of Carter Fiorello, et al versus the</p> <p>15 Incorporated Village of Ocean Beach. This</p> <p>16 deposition is taking place at 926 RexCorp</p> <p>17 Plaza, Uniondale, New York on Wednesday,</p> <p>18 June the 3rd, 2009 at approximately</p> <p>19 10:04 a.m.</p> <p>20 My name is Steve San Pietro from TSG, 10:04:37AM</p> <p>21 and I am the legal video specialist. The</p> <p>22 court reporter today is Judi Johnson in</p> <p>23 association with TSG Reporting.</p> <p>24 Will counsel please introduce 10:04:47AM</p> <p>25 yourselves for the record.</p>	<p style="text-align: right;">Page 8</p> <p>1 GEORGE HESSE</p> <p>2 Carter, Kevin Lamm, Tom Snyder and Joe Nofi.</p> <p>3 And we're here today to ask you some questions</p> <p>4 about the allegations in the complaint.</p> <p>5 What is your current address? 10:06:00AM</p> <p>6 A My current address, my official 10:06:03AM</p> <p>7 address is 315 Bay Walk, P.O. Box 371 Ocean</p> <p>8 Beach, New York 11770.</p> <p>9 Q What do you mean by official address? 10:06:15AM</p> <p>10 A I also have a second residence of 10:06:17AM</p> <p>11 191 The Helm, East Islip, New York 11730.</p> <p>12 Q And which address do you live at? 10:06:26AM</p> <p>13 A I mostly live at 191 The Helm, and I 10:06:29AM</p> <p>14 do sleep at my apartment in Ocean Beach.</p> <p>15 Q How many days a year do you -- 10:06:37AM</p> <p>16 approximately, do you sleep at The Helm versus</p> <p>17 your Ocean Beach residence?</p> <p>18 A I'd say the majority of the year. 10:06:43AM</p> <p>19 Most of the summer, I stay in Ocean Beach.</p> <p>20 Q And when did you start living at Ocean 10:06:53AM</p> <p>21 Beach during the summers?</p> <p>22 A About, I'd say, three years ago I 10:06:57AM</p> <p>23 started staying weekends at the beach.</p> <p>24 Q Who else lives with you at that 10:07:08AM</p> <p>25 address at the beach?</p>

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1 **GEORGE HESSE**

2 A It's a shared address. It's the Ocean 10:07:11AM

3 Beach police barracks, and I have a room within

4 the barracks.

5 **Q Anyone else live there? 10:07:18AM**

6 A There are other police officers that 10:07:20AM

7 do stay overnight there, but I wouldn't say they

8 live there.

9 **Q Would you say that you live there? 10:07:26AM**

10 A No, but it's one of my official 10:07:28AM

11 addresses.

12 **Q Why do use that as an official address 10:07:32AM**

13 **if you don't live there?**

14 MR. NOVIKOFF: Objection. 10:07:36AM

15 MR. CONNOLLY: Objection. 10:07:37AM

16 MR. NOVIKOFF: Argumentative. 10:07:39AM

17 A It's on my driver's license. That's 10:07:40AM

18 where I vote. That's where I'm registered to

19 vote. That's my legal address.

20 **Q Do you pay taxes out of there? 10:07:45AM**

21 A No. 10:07:47AM

22 MR. NOVIKOFF: Objection. Vague. 10:07:48AM

23 BY MR. GOODSTADT: 10:07:49AM

24 **Q What address do you pay taxes from? 10:07:51AM**

25 MR. NOVIKOFF: Objection. 10:07:54AM

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1 **GEORGE HESSE**

2 A I don't. 10:07:54AM

3 **Q You don't pay taxes? 10:07:54AM**

4 A Of course I pay taxes. 10:07:57AM

5 MR. CONNOLLY: Andrew, what do you -- 10:08:00AM

6 BY MR. GOODSTADT: 10:08:02AM

7 **Q What address do you list on your tax 10:08:02AM**

8 **returns?**

9 MR. NOVIKOFF: Oh, okay. 10:08:05AM

10 A In Ocean Beach. 10:08:07AM

11 **Q And who lives at the 191 The Helm 10:08:13AM**

12 **address?**

13 A My wife, my two children, my father 10:08:16AM

14 and his girlfriend.

15 **Q What's your wife's name? 10:08:25AM**

16 A Shannon. 10:08:26AM

17 **Q What are your children's ages? 10:08:28AM**

18 A My daughter Lauren is 12. Megan is 10:08:30AM

19 eight.

20 **Q And your father's name is? 10:08:37AM**

21 A Dan. 10:08:39AM

22 **Q Same last name? 10:08:40AM**

23 A Yes. 10:08:42AM

24 **Q And his girlfriend's name? 10:08:42AM**

25 A Denise. 10:08:44AM

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1 **GEORGE HESSE**

2 **Q Who owns that address? 10:08:48AM**

3 A My father. 10:08:50AM

4 **Q And what's Denise's last name? 10:09:01AM**

5 A Czarnecki, C-Z-A-R-N-E-K-I. Close 10:09:04AM

6 enough.

7 **Q How long has she lived there? 10:09:10AM**

8 A 14 years. 10:09:12AM

9 **Q Did you use the Ocean Beach address 10:09:20AM**

10 **prior to three seasons ago when you started**

11 **staying overnight there?**

12 A Yes. 10:09:27AM

13 MR. NOVIKOFF: Can we just have for 10:09:28AM

14 the record what season are you referring to,

15 2006, 2007, 2005?

16 BY MR. GOODSTADT: 10:09:36AM

17 **Q Well, what season did you start 10:09:36AM**

18 **staying there?**

19 A 2006, I started staying there on a 10:09:40AM

20 regular basis on the weekends.

21 MR. NOVIKOFF: Do you want to define 10:09:46AM

22 the season, Andrew? It's been defined

23 before by other witnesses.

24 BY MR. GOODSTADT: 10:09:50AM

25 **Q When you use the word "season," why 10:09:51AM**

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1 **GEORGE HESSE**

2 **don't you tell us what you mean so we're both of**

3 **the same page.**

4 A The summer season of 2006 would start, 10:09:55AM

5 say, May and end in September.

6 **Q Is that somewhere before Memorial Day 10:10:05AM**

7 **to somewhere just after Labor Day?**

8 A Yeah. Two weeks before Memorial Day 10:10:10AM

9 to two weeks after Labor Day is an official

10 season, but I usually started staying around

11 Memorial Day right to Labor Day.

12 **Q And prior to 2006, were you using that 10:10:19AM**

13 **Ocean Beach address as your official address?**

14 A Yes. 10:10:24AM

15 **Q How come? 10:10:24AM**

16 A Well, I actually did live there back 10:10:26AM

17 in 2005 for about a year and a half, but not

18 directly at that address of 315 Bay Walk.

19 **Q What address did you live in? 10:10:38AM**

20 A The physical address was 146 Bungalow 10:10:40AM

21 Walk, and that's in Ocean Beach.

22 **Q Was that -- 10:10:48AM**

23 A It's a house. 10:10:49AM

24 **Q Who owns that house? 10:10:50AM**

25 A Right now, someone named Joe 10:10:53AM

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<p>1 GEORGE HESSE</p> <p>2 Housworth.</p> <p>3 Q Who owned it when you lived there in '05? 10:10:56AM</p> <p>4</p> <p>5 A Oh, God. Last name was Reusch. I 10:11:00AM</p> <p>6 think it was R-E-U-S-C-H.</p> <p>7 Q Did you rent it from Reusch? 10:11:08AM</p> <p>8 A Yes. 10:11:10AM</p> <p>9 Q Did you pay for that or did the beach pay for it? 10:11:10AM</p> <p>10</p> <p>11 A I paid for it. 10:11:14AM</p> <p>12 Q Who did you live with in '05 for a year and a half there? 10:11:14AM</p> <p>13</p> <p>14 A I lived with my wife; and then for a 10:11:18AM</p> <p>15 short time, when my daughter was born, she lived</p> <p>16 there with us.</p> <p>17 Q And prior to '05, had you ever used the Ocean Beach address as your address or any Ocean Beach address as your address? 10:11:27AM</p> <p>18</p> <p>19 MR. NOVIKOFF: Objection to form. 10:11:37AM</p> <p>20</p> <p>21 A I don't know -- I'm thinking in 2004, 10:11:38AM</p> <p>22 I may have established the address of 315 Bay</p> <p>23 Walk.</p> <p>24 Q How about prior to 2004, did you ever use an Ocean Beach address as your address? 10:11:53AM</p> <p>25</p>	<p>1 GEORGE HESSE</p> <p>2 A I don't know. I was 23 years old and 10:12:53AM</p> <p>3 I just took this job in Ocean Beach, and they</p> <p>4 offered us -- not just me, but several police</p> <p>5 officers the opportunity to stay there. I was</p> <p>6 working late-night shifts; and to get a good</p> <p>7 night's sleep, instead of going all the way home</p> <p>8 and back, I stayed in the barracks.</p> <p>9 Q So just start. So '94, you established that as an official address? 10:13:12AM</p> <p>10</p> <p>11 A That's correct, yes. 10:13:16AM</p> <p>12 Q What was the next official address that you used after '94? 10:13:17AM</p> <p>13</p> <p>14 MR. NOVIKOFF: Objection to form. 10:13:21AM</p> <p>15</p> <p>16 A I guess when I moved to 191 The Helm. 10:13:24AM</p> <p>17 Q When was that? 10:13:27AM</p> <p>18 A You gotta figure -- let's see. I 10:13:30AM</p> <p>19 think it was at the end of '97.</p> <p>20 Q And how long did you live at 191 The Helm? 10:13:45AM</p> <p>21</p> <p>22 A From '97 to present. 10:13:48AM</p> <p>23 Q Did you ever use 191 The Helm as your official address? 10:13:53AM</p> <p>24</p> <p>25 MR. NOVIKOFF: Objection. 10:13:58AM</p> <p>A No. 10:13:58AM</p>
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<p>1 GEORGE HESSE</p> <p>2 MR. NOVIKOFF: Objection to form. 10:11:57AM</p> <p>3 A No. 10:11:58AM</p> <p>4 Q So prior to 2004, you never lived at Ocean Beach? 10:12:02AM</p> <p>5</p> <p>6 MR. NOVIKOFF: Same objection. 10:12:06AM</p> <p>7</p> <p>8 A In -- I'm sorry, did I say 2004? I 10:12:07AM</p> <p>9 meant '94, 1994. My first summer in Ocean Beach</p> <p>10 was in '93, and I actually lived in the barracks</p> <p>11 five days a week for my first season in Ocean</p> <p>12 Beach.</p> <p>13 Q Were you a full-time officer or part-time officer? 10:12:30AM</p> <p>14</p> <p>15 A I was part-time or seasonal at that 10:12:32AM</p> <p>16 time.</p> <p>17 Q And you lived in the barracks five days a week? 10:12:37AM</p> <p>18</p> <p>19 A Five days a week, correct. 10:12:39AM</p> <p>20 Q Did you pay any rent? 10:12:40AM</p> <p>21</p> <p>22 A No. 10:12:42AM</p> <p>23 Q So why did you live there? 10:12:44AM</p> <p>24</p> <p>25 MR. NOVIKOFF: I'm going to object. 10:12:48AM</p> <p>BY MR. GOODSTADT: 10:12:49AM</p> <p>Q Why did you live at Ocean Beach during five days a week? 10:12:49AM</p>	<p>1 GEORGE HESSE</p> <p>2 Q So it was always Ocean Beach? 10:13:58AM</p> <p>3</p> <p>4 A Correct. 10:14:01AM</p> <p>5 Q So how about from '97 until 2005, did you live in Ocean Beach at any time during that period at all? 10:14:02AM</p> <p>6</p> <p>7 MR. NOVIKOFF: Objection to form. 10:14:08AM</p> <p>8</p> <p>9 A I would stay in Ocean Beach on 10:14:09AM</p> <p>10 occasion.</p> <p>11 Q What do you mean by on occasion? 10:14:12AM</p> <p>12</p> <p>13 A Well, back in the day, between -- I 10:14:13AM</p> <p>14 got hired full-time in '95. So '95 through</p> <p>15 maybe 2000, we worked some really whacked-out</p> <p>16 tours, in the winter especially. We did two</p> <p>17 days on with four days off, and I would stay</p> <p>18 there my entire 48 hours. And we were allowed</p> <p>19 to sleep, eat and stay in our apartments, the</p> <p>20 barracks, during my tour after my patrol</p> <p>21 function was done.</p> <p>22 Q So how many days a week were you living there between '97, when you moved out, and 2005, when you said you lived there for a year and a half? 10:14:49AM</p> <p>23</p> <p>24 A You gotta figure it was 48-hour 10:14:57AM</p> <p>25 shifts. It was two days straight, four days</p>

<p style="text-align: right;">Page 17</p> <p>1 GEORGE HESSE</p> <p>2 off. Sometimes I would stay an extra day;</p> <p>3 sometimes I would go to 191 The Helm.</p> <p>4 Q And why were you using the Ocean Beach 10:15:11AM</p> <p>5 address as your official address during that</p> <p>6 period even though you were only staying there</p> <p>7 two days a week?</p> <p>8 MR. NOVIKOFF: Objection to form. 10:15:19AM</p> <p>9 MR. CONNOLLY: Which period, again, 10:15:21AM</p> <p>10 are we speaking of?</p> <p>11 MR. GOODSTADT: That period between 10:15:25AM</p> <p>12 '97, when he moved to 191 The Helm, and</p> <p>13 2005, when he moved to 146 Bungalow Walk.</p> <p>14 A Will you repeat the question, please. 10:15:34AM</p> <p>15 Q Why did you use the Ocean Beach 10:15:36AM</p> <p>16 address as your official address during that</p> <p>17 period, when you were only staying there two</p> <p>18 days a week?</p> <p>19 MR. NOVIKOFF: Objection to form. 10:15:44AM</p> <p>20 A I always kept it because I always 10:15:45AM</p> <p>21 thought I would officially move to Ocean Beach</p> <p>22 on a permanent basis.</p> <p>23 Q So it was in anticipation of moving to 10:15:51AM</p> <p>24 Ocean Beach?</p> <p>25 A Correct. 10:15:54AM</p>	<p style="text-align: right;">Page 19</p> <p>1 GEORGE HESSE</p> <p>2 for all those years?</p> <p>3 A Yes. 10:16:40AM</p> <p>4 Q I just want to go over some ground 10:16:48AM</p> <p>5 rules before we get started.</p> <p>6 MR. NOVIKOFF: I thought we just got 10:16:52AM</p> <p>7 started.</p> <p>8 MR. CONNOLLY: Continue. 10:16:56AM</p> <p>9 MR. GOODSTADT: Was that an objection 10:16:57AM</p> <p>10 or just an obnoxious comment?</p> <p>11 MR. NOVIKOFF: It was a comment. You 10:17:01AM</p> <p>12 said you were going to go over the ground</p> <p>13 rules before we got started, but we've just</p> <p>14 now spent 15 minutes on a residency issue.</p> <p>15 MR. GOODSTADT: Now we're wasting time 10:17:08AM</p> <p>16 on your inappropriate comments.</p> <p>17 MR. NOVIKOFF: If you'd like to 10:17:12AM</p> <p>18 continue the conversation, I'd be happy to.</p> <p>19 BY MR. GOODSTADT: 10:17:16AM</p> <p>20 Q Do you understand that you're 10:17:16AM</p> <p>21 testifying under oath today?</p> <p>22 A Yes. 10:17:19AM</p> <p>23 Q And that you're legally obligated to 10:17:19AM</p> <p>24 tell the truth?</p> <p>25 A Yes. 10:17:22AM</p>
<p style="text-align: right;">Page 18</p> <p>1 GEORGE HESSE</p> <p>2 Q But you didn't actually live there on 10:15:54AM</p> <p>3 a permanent basis, correct?</p> <p>4 A For almost two years, I did. 10:15:59AM</p> <p>5 Q But not during the period between '97 10:16:01AM</p> <p>6 and '04, correct?</p> <p>7 A No. 10:16:05AM</p> <p>8 Q Was there a residency requirement to 10:16:05AM</p> <p>9 be a full-time officer in Ocean Beach?</p> <p>10 A Yes. 10:16:09AM</p> <p>11 Q Is that why you use Ocean Beach as the 10:16:10AM</p> <p>12 address?</p> <p>13 A At the time when I got hired, yes. 10:16:11AM</p> <p>14 Q And when did you become a full-time 10:16:14AM</p> <p>15 officer?</p> <p>16 A '95. I believe it was November of 10:16:17AM</p> <p>17 '95.</p> <p>18 Q So the period between '97 and '05 that 10:16:22AM</p> <p>19 you didn't live there, you used the Ocean Beach</p> <p>20 address because of the residency requirement?</p> <p>21 A No. 10:16:31AM</p> <p>22 Q You used it because you anticipated 10:16:32AM</p> <p>23 that you'd eventually live there?</p> <p>24 A Correct. 10:16:35AM</p> <p>25 Q Even though you weren't at the time, 10:16:36AM</p>	<p style="text-align: right;">Page 20</p> <p>1 GEORGE HESSE</p> <p>2 Q And failure to do so is potentially 10:17:22AM</p> <p>3 punishable as a criminal sanction?</p> <p>4 A Yes. 10:17:24AM</p> <p>5 Q Have you ever testified under oath 10:17:25AM</p> <p>6 before --</p> <p>7 A Yes. 10:17:27AM</p> <p>8 Q Let me finish the question. 10:17:29AM</p> <p>9 Have you ever testified under oath 10:17:30AM</p> <p>10 before outside of your capacity as an arresting</p> <p>11 officer?</p> <p>12 A No. 10:17:38AM</p> <p>13 Q So you never testified in a civil 10:17:39AM</p> <p>14 action?</p> <p>15 A Yes. 10:17:42AM</p> <p>16 Q So since this is the first time you're 10:17:47AM</p> <p>17 testifying under oath in a civil action, I just</p> <p>18 want to make sure that --</p> <p>19 MR. NOVIKOFF: Objection. He 10:17:54AM</p> <p>20 testified, I believe, that he testified in a</p> <p>21 civil action.</p> <p>22 MR. GOODSTADT: I said he's never 10:18:00AM</p> <p>23 testified in a civil action, and he said</p> <p>24 yes.</p> <p>25</p>

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<p>1 GEORGE HESSE</p> <p>2 BY MR. GOODSTADT: 10:18:05AM</p> <p>3 Q Have you ever testified in a civil 10:18:06AM</p> <p>4 action?</p> <p>5 A Yes. 10:18:07AM</p> <p>6 Q How many times? 10:18:08AM</p> <p>7 A Four, maybe five. 10:18:17AM</p> <p>8 Q So why don't we start from today, not 10:18:22AM</p> <p>9 including today, going in reverse chronological</p> <p>10 order. When was the most recent time you</p> <p>11 testified under oath in a civil action?</p> <p>12 A The last time may have been around 10:18:38AM</p> <p>13 1999.</p> <p>14 Q And were you a party to that civil 10:18:44AM</p> <p>15 action?</p> <p>16 A You know, I don't remember if I was 10:18:49AM</p> <p>17 particularly sued, but there was a police</p> <p>18 officer within the department that was sued.</p> <p>19 Q And what was that matter -- strike 10:18:56AM</p> <p>20 that.</p> <p>21 Who was the plaintiff in that matter? 10:19:01AM</p> <p>22 A Christopher Cuneen, C-U-N-E-E-N. 10:19:03AM</p> <p>23 Q And who were the defendants? 10:19:10AM</p> <p>24 A I don't remember if I was a named 10:19:12AM</p> <p>25 defendant, but Sergeant Bob Golopi and of course</p>	<p>1 GEORGE HESSE</p> <p>2 MR. NOVIKOFF: Objection only to the 10:20:16AM</p> <p>3 extent if you are aware if there was a</p> <p>4 confidentiality agreement. If you have no</p> <p>5 knowledge one way or of the other, then</p> <p>6 answer the question.</p> <p>7 MR. GOODSTADT: Don't you know a 10:20:26AM</p> <p>8 confidentiality agreement doesn't trump his</p> <p>9 obligation to testify under oath?</p> <p>10 MR. NOVIKOFF: I don't know what the 10:20:30AM</p> <p>11 confidentiality agreement says. I'm not</p> <p>12 going to take your representation of what</p> <p>13 the law is.</p> <p>14 MR. GOODSTADT: Well, that is the law. 10:20:37AM</p> <p>15 MR. NOVIKOFF: I'm asking the witness, 10:20:39AM</p> <p>16 since I represent the village, that if he's</p> <p>17 aware of whether or not there's a</p> <p>18 confidentiality agreement, he should say so.</p> <p>19 If he's not, he can answer the question.</p> <p>20 MR. CONNOLLY: You can answer the 10:20:48AM</p> <p>21 question.</p> <p>22 A I'm not aware. 10:20:50AM</p> <p>23 Q You're not aware of what it settled 10:20:51AM</p> <p>24 for?</p> <p>25 A I'm not aware, no. 10:20:54AM</p>
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<p>1 GEORGE HESSE</p> <p>2 the Ocean Beach Police Department and the</p> <p>3 Village of Ocean Beach.</p> <p>4 Q And what was Mr. Cuneen alleging in 10:19:21AM</p> <p>5 his lawsuit?</p> <p>6 A That he was brutally beaten up, false 10:19:27AM</p> <p>7 arrest, violation of civil rights.</p> <p>8 Q Who did he allege beat him up? 10:19:35AM</p> <p>9 A He may have alleged myself and 10:19:39AM</p> <p>10 Sergeant Golopi.</p> <p>11 Q And you testified under oath in a 10:19:53AM</p> <p>12 deposition or in some other form?</p> <p>13 A In a deposition. 10:19:57AM</p> <p>14 Q Who represented you in that matter? 10:19:59AM</p> <p>15 A I don't recall. 10:20:01AM</p> <p>16 Q Did you testify at a trial in that 10:20:04AM</p> <p>17 matter?</p> <p>18 A No. 10:20:06AM</p> <p>19 Q Did that matter get to a trial? 10:20:07AM</p> <p>20 A No. 10:20:09AM</p> <p>21 Q Do you know how that case was 10:20:09AM</p> <p>22 resolved?</p> <p>23 A I believe there was a settlement. 10:20:11AM</p> <p>24 Q Do you know what the settlement was 10:20:14AM</p> <p>25 for?</p>	<p>1 GEORGE HESSE</p> <p>2 MR. GOODSTADT: Ken, if you could just 10:21:28AM</p> <p>3 put your microphone back on so all this</p> <p>4 stuff is on the record.</p> <p>5 MR. NOVIKOFF: I think it is on the 10:21:31AM</p> <p>6 record. The stenographer and I believe the</p> <p>7 videographer nodded with approval when I</p> <p>8 took the mic off, indicating, at least to</p> <p>9 me, that he could hear me.</p> <p>10 MR. GOODSTADT: Is it picking up? 10:21:41AM</p> <p>11 Yeah, because I think we had one deposition</p> <p>12 where it didn't.</p> <p>13 BY MR. GOODSTADT: 10:21:47AM</p> <p>14 Q Now, prior to the 1999 case with 10:21:47AM</p> <p>15 Mr. Cuneen, when was the time before that that</p> <p>16 you testified under oath in a civil matter?</p> <p>17 A I believe the one prior to that -- 10:21:56AM</p> <p>18 actually, you know what, I'm mistaken. There</p> <p>19 might have been one just prior to that -- before</p> <p>20 that one, working our way back. Bruce Mancada.</p> <p>21 Q Do you know how to spell Mancada? 10:22:11AM</p> <p>22 A It's M-A-N-C-A-D-A. 10:22:14AM</p> <p>23 Q And Mr. Mancada was a plaintiff in the 10:22:22AM</p> <p>24 matter that you testified in?</p> <p>25 A Yes. 10:22:25AM</p>

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1 GEORGE HESSE

2 **Q Were you a defendant in that case? 10:22:26AM**

3 A Yes. 10:22:27AM

4 **Q Where was that case filed, do you 10:22:27AM**

5 **know?**

6 A I believe in Suffolk County. 10:22:29AM

7 **Q Where was the Cuneen case filed, do 10:22:34AM**

8 **you know?**

9 A Also, I believe, Suffolk County. 10:22:37AM

10 **Q And who were the defendants in 10:22:43AM**

11 **Mr. Mancada's case?**

12 A That would be me and a Billy Powell. 10:22:46AM

13 **Q And what were the allegations that 10:22:54AM**

14 **Mr. Mancada made against you and Mr. Powell?**

15 A Excessive force, violation of civil 10:22:59AM

16 rights.

17 MR. NOVIKOFF: I'm sorry, Andrew. Did 10:23:10AM

18 we establish this was before or after the

19 first case that he talked about?

20 MR. GOODSTADT: He believed it was 10:23:16AM

21 closer to today --

22 MR. NOVIKOFF: Okay. Got it. 10:23:19AM

23 MR. GOODSTADT: -- than the Cuneen 10:23:20AM

24 matter.

25 MR. CONNOLLY: At or about 1999. 10:23:23AM

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1 GEORGE HESSE

2 THE WITNESS: I believe it was 2000, 10:23:26AM

3 2001. I'm not really sure.

4 BY MR. GOODSTADT: 10:23:29AM

5 **Q And you testified under oath in a 10:23:30AM**

6 **deposition or was it some other form in that**

7 **matter?**

8 A A deposition. 10:23:35AM

9 **Q Did you testify at trial in that 10:23:35AM**

10 **matter?**

11 A No. 10:23:37AM

12 **Q Was there a trial in that matter? 10:23:37AM**

13 A No. 10:23:39AM

14 **Q Do you know how that case was 10:23:39AM**

15 **resolved?**

16 A No. 10:23:41AM

17 **Q You don't know if there was a 10:23:42AM**

18 **settlement?**

19 A No. 10:23:44AM

20 **Q Who represented you in that matter? 10:23:45AM**

21 A I don't recall. 10:23:47AM

22 **Q In connection with the Cuneen matter, 10:23:52AM**

23 **were there any criminal charges brought against**

24 **you?**

25 A No. 10:23:57AM

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1 GEORGE HESSE

2 **Q Were there any criminal charges 10:23:57AM**

3 **brought against Mr. Cuneen?**

4 A Yes. 10:24:01AM

5 **Q What were the charges brought against 10:24:02AM**

6 **Mr. Cuneen?**

7 A I wouldn't say criminal -- it was -- 10:24:05AM

8 actually, there were two incidents with

9 Mr. Cuneen. One dealt with me, where he was

10 trespassing on private property, and he was

11 arrested for that. And then later he was

12 rearrested for harassment, maybe. I don't know

13 the particulars of the charges, but he was

14 rearrested later, when I wasn't present.

15 **Q Do you know whether he was convicted 10:24:35AM**

16 **on any of those arrests?**

17 A I don't know. 10:24:43AM

18 **Q And who arrested him for trespassing? 10:24:44AM**

19 A I was the arresting officer. 10:24:46AM

20 **Q And who was the arresting officer for 10:24:48AM**

21 **the harassment or other crime?**

22 A Bob Golopi, Sergeant Bob Golopi. 10:24:54AM

23 **Q And Bob Golopi was one of the 10:24:59AM**

24 **defendants in that matter?**

25 A Yes. 10:25:05AM

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1 GEORGE HESSE

2 **Q And he was alleged to have physically 10:25:05AM**

3 **beaten Mr. Cuneen?**

4 A He was alleged, yes. 10:25:09AM

5 **Q And now the Mancada matter. Were 10:25:11AM**

6 **there any criminal charges brought against you?**

7 A No. 10:25:17AM

8 **Q Were there any criminal charges 10:25:17AM**

9 **brought against Mr. Mancada?**

10 A Yes. 10:25:21AM

11 **Q What were the charges brought against 10:25:22AM**

12 **Mr. Mancada?**

13 A They were disorderly conduct and 10:25:25AM

14 resisting arrest.

15 **Q After being arrested -- after being 10:25:37AM**

16 **arrested for that, was he actually charged with**

17 **those --**

18 A Yes. 10:25:42AM

19 **Q -- with two allegations? 10:25:43AM**

20 **Was there a trial? 10:25:45AM**

21 A No. 10:25:46AM

22 **Q Did he plead? 10:25:48AM**

23 A I don't know. 10:25:49AM

24 **Q Who was the arresting officer of 10:25:50AM**

25 **Mr. Mancada?**

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<p>1 GEORGE HESSE</p> <p>2 A I was. 10:25:53AM</p> <p>3 Q What did Mr. Mancada allege you to 10:25:58AM</p> <p>4 have done?</p> <p>5 A I believe just an excessive use of 10:26:04AM</p> <p>6 force and violated his civil rights. I don't</p> <p>7 really recall the whole complaint.</p> <p>8 Q Do you recall anything that he alleged 10:26:12AM</p> <p>9 that you had done to him that he believed was</p> <p>10 excessive force?</p> <p>11 A No. 10:26:16AM</p> <p>12 Q So you don't know if he was convicted 10:26:22AM</p> <p>13 for anything --</p> <p>14 A I don't recall. 10:26:25AM</p> <p>15 Q -- in connection with that matter? 10:26:25AM</p> <p>16 How about -- and I think you testified 10:26:29AM</p> <p>17 that -- did you testify that Golopi was a</p> <p>18 sergeant at the time?</p> <p>19 A Yes, I did. 10:26:38AM</p> <p>20 MR. NOVIKOFF: Objection. Asked and 10:26:40AM</p> <p>21 answered.</p> <p>22 A Yes. 10:26:41AM</p> <p>23 Q He was? You reported to him at that 10:26:41AM</p> <p>24 time?</p> <p>25 A I reported to him? Yes. 10:26:46AM</p>	<p>1 GEORGE HESSE</p> <p>2 Q And who was the plaintiff in that 10:27:41AM</p> <p>3 matter?</p> <p>4 A Kenneth Ryan. 10:27:43AM</p> <p>5 Q Were you a defendant in that matter? 10:27:48AM</p> <p>6 A Yes. 10:27:50AM</p> <p>7 Q Who were the other defendants? 10:27:51AM</p> <p>8 A I might have been the only one. I'm 10:27:52AM</p> <p>9 not sure. I don't recall.</p> <p>10 Q What was the allegation that Mr. Ryan 10:27:57AM</p> <p>11 made against you in that matter?</p> <p>12 A Excessive force, violation of civil 10:28:01AM</p> <p>13 rights.</p> <p>14 Q Just so we're clear, the Cuneen 10:28:08AM</p> <p>15 matter, Golopi was a defendant. Was the beach</p> <p>16 also a defendant in that matter?</p> <p>17 A Yes. 10:28:18AM</p> <p>18 Q And the same thing with Mancada 10:28:19AM</p> <p>19 matter. It was you, Powell. The beach also was</p> <p>20 a defendant?</p> <p>21 A Correct. 10:28:24AM</p> <p>22 Q Were any other individuals that were 10:28:24AM</p> <p>23 defendants in that matter?</p> <p>24 A In which one? 10:28:27AM</p> <p>25 Q Mancada. 10:28:28AM</p>
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<p>1 GEORGE HESSE</p> <p>2 Q Then how about the time before the 10:26:51AM</p> <p>3 Cuneen testimony, when did that happen?</p> <p>4 MR. NOVIKOFF: Objection to form. 10:26:57AM</p> <p>5 BY MR. GOODSTADT: 10:26:58AM</p> <p>6 Q The time prior to the Cuneen matter, 10:26:58AM</p> <p>7 when was the closest in time to that that you</p> <p>8 testified under oath in a civil matter?</p> <p>9 MR. NOVIKOFF: Objection to form. 10:27:08AM</p> <p>10 MR. CONNOLLY: You can answer. 10:27:08AM</p> <p>11 A I really don't understand the 10:27:10AM</p> <p>12 question.</p> <p>13 Q Right. We're going in reverse 10:27:12AM</p> <p>14 chronological on your civil testimony, correct?</p> <p>15 A Right. 10:27:15AM</p> <p>16 Q So you have Mancada is the most 10:27:16AM</p> <p>17 recent, other than for today.</p> <p>18 A Okay. 10:27:20AM</p> <p>19 Q Then Cuneen? 10:27:21AM</p> <p>20 A Correct. 10:27:22AM</p> <p>21 Q Okay. And now going in reverse 10:27:22AM</p> <p>22 chronological order, when was the time before</p> <p>23 that that you testified in a civil matter?</p> <p>24 A I believe -- I don't know the exact 10:27:28AM</p> <p>25 date. It could be in or around 95, '96.</p>	<p>1 GEORGE HESSE</p> <p>2 A Not that I recall. 10:28:29AM</p> <p>3 Q How about in Cuneen? 10:28:30AM</p> <p>4 A Not that I recall. 10:28:32AM</p> <p>5 Q And Ryan, was the beach a defendant? 10:28:33AM</p> <p>6 A Yes. 10:28:40AM</p> <p>7 Q Who represented you in the Ryan 10:28:40AM</p> <p>8 matter?</p> <p>9 A I don't recall. 10:28:43AM</p> <p>10 Q When you testified, was it at a 10:28:43AM</p> <p>11 deposition or some other forum?</p> <p>12 A Deposition. 10:28:49AM</p> <p>13 Q And what were the allegations that 10:28:51AM</p> <p>14 Mr. Ryan made that led him to claim that you</p> <p>15 used excessive force and violated his civil</p> <p>16 rights?</p> <p>17 A Repeat that. 10:29:00AM</p> <p>18 Q Yes. 10:29:01AM</p> <p>19 What -- what conduct did Mr. Ryan 10:29:02AM</p> <p>20 allege that you engaged in that amounted to</p> <p>21 excessive force and a violation of his civil</p> <p>22 rights?</p> <p>23 MR. NOVIKOFF: Alleged in the 10:29:12AM</p> <p>24 complaint?</p> <p>25 MR. GOODSTADT: Correct. 10:29:14AM</p>

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<p>1 GEORGE HESSE</p> <p>2 A I think he alleged that I hit him in 10:29:14AM</p> <p>3 the face with a baton and that I falsely</p> <p>4 arrested him.</p> <p>5 Q Did that matter go to trial? 10:29:25AM</p> <p>6 A No. 10:29:27AM</p> <p>7 Q Do you know how that matter was 10:29:28AM</p> <p>8 disposed of or resolved?</p> <p>9 A No. 10:29:31AM</p> <p>10 Q You don't know if there was a 10:29:32AM</p> <p>11 settlement in that matter?</p> <p>12 A I don't know. 10:29:35AM</p> <p>13 Q Were any criminal charges brought 10:29:48AM</p> <p>14 against you in connection with the Ryan matter?</p> <p>15 A No. 10:29:54AM</p> <p>16 Q Were there any criminal -- well, 10:29:54AM</p> <p>17 strike that.</p> <p>18 Was he arrested at all in connection 10:29:54AM</p> <p>19 with that matter?</p> <p>20 A Yes. 10:29:57AM</p> <p>21 Q What was he arrested for? 10:29:57AM</p> <p>22 A Disorderly conduct and resisting 10:29:59AM</p> <p>23 arrest.</p> <p>24 Q And who was the arresting officer in 10:30:05AM</p> <p>25 that matter?</p>	<p>1 GEORGE HESSE</p> <p>2 BY MR. GOODSTADT: 10:31:02AM</p> <p>3 Q Were you a defendant? 10:31:02AM</p> <p>4 A Say that again. 10:31:04AM</p> <p>5 Q Were you a defendant? 10:31:04AM</p> <p>6 A Yes. 10:31:06AM</p> <p>7 Q Who were the other defendants? 10:31:06AM</p> <p>8 A I would believe just the Village of 10:31:09AM</p> <p>9 Ocean Beach. I don't know if there were any</p> <p>10 others.</p> <p>11 Q And what did Mr. Bloomberg allege in 10:31:16AM</p> <p>12 his complaint?</p> <p>13 A Excessive use of force and violating 10:31:19AM</p> <p>14 his civil rights.</p> <p>15 Q And what did -- what conduct did he 10:31:32AM</p> <p>16 allege that you engaged in that amounted to</p> <p>17 excessive force and a violation of his civil</p> <p>18 rights?</p> <p>19 A What amount of conduct did I do? 10:31:41AM</p> <p>20 Q Well, what conduct did he allege that 10:31:44AM</p> <p>21 you did that amounted to excessive force and a</p> <p>22 violation of his civil rights?</p> <p>23 MR. NOVIKOFF: In the complaint? 10:31:51AM</p> <p>24 MR. GOODSTADT: What was he alleging 10:31:52AM</p> <p>25 in the complaint.</p>
Page 34	Page 36
<p>1 GEORGE HESSE</p> <p>2 A I was. 10:30:08AM</p> <p>3 Q Was he actually charged with those 10:30:09AM</p> <p>4 crimes after being arrested?</p> <p>5 A Yes. 10:30:13AM</p> <p>6 Q Was there a trial? 10:30:14AM</p> <p>7 A No. 10:30:18AM</p> <p>8 Q Did he take a plea? 10:30:19AM</p> <p>9 A Yes. 10:30:21AM</p> <p>10 Q Do you know what he pled to? 10:30:21AM</p> <p>11 A He may have pled to the disorderly 10:30:24AM</p> <p>12 conduct, and he allocuted.</p> <p>13 Q And how about the time before Kenneth 10:30:35AM</p> <p>14 Ryan in which you testified in a civil matter,</p> <p>15 when was that?</p> <p>16 A The next one. 10:30:44AM</p> <p>17 Q In reverse chronological order, the 10:30:46AM</p> <p>18 time that you testified in a civil matter prior</p> <p>19 to the Ryan matter.</p> <p>20 A It may have been '93 or '94. 10:30:52AM</p> <p>21 Q And who was the plaintiff in that 10:30:54AM</p> <p>22 matter?</p> <p>23 A Michael Bloomberg. 10:30:56AM</p> <p>24 MR. NOVIKOFF: The mayor? 10:30:58AM</p> <p>25 THE WITNESS: No. 10:31:01AM</p>	<p>1 GEORGE HESSE</p> <p>2 A I don't really recall exactly. 10:31:56AM</p> <p>3 Q Was there a trial in that matter? 10:31:59AM</p> <p>4 A No. 10:32:01AM</p> <p>5 Q Do you know how that matter was 10:32:01AM</p> <p>6 resolved or disposed of?</p> <p>7 A No. 10:32:05AM</p> <p>8 Q You don't know if there was a 10:32:05AM</p> <p>9 settlement?</p> <p>10 A No. 10:32:08AM</p> <p>11 Q Who represented you in connection with 10:32:10AM</p> <p>12 that matter?</p> <p>13 A I don't recall. 10:32:12AM</p> <p>14 Q Do you know where that matter was 10:32:12AM</p> <p>15 filed?</p> <p>16 A Maybe Suffolk County. 10:32:14AM</p> <p>17 Q How about the Ryan matter, do you know 10:32:16AM</p> <p>18 where that was filed?</p> <p>19 A Maybe Suffolk County also. 10:32:19AM</p> <p>20 Q Were there any times that you 10:32:23AM</p> <p>21 testified in a civil matter other than for today</p> <p>22 and the four that you just testified to?</p> <p>23 A Not that I recall. 10:32:30AM</p> <p>24 Q Well, we're doing a good job so far, 10:32:36AM</p> <p>25 but it's important that you give verbal answers</p>

<p style="text-align: right;">Page 37</p> <p>1 GEORGE HESSE</p> <p>2 so we can get a written record as well as a</p> <p>3 videotaped transmission of this deposition; is</p> <p>4 that okay?</p> <p>5 A I understand. 10:32:48AM</p> <p>6 Q If I ask a question that you don't 10:32:49AM</p> <p>7 understand or you don't hear, just ask me to</p> <p>8 repeat it or rephrase it, okay?</p> <p>9 A Okay. 10:32:58AM</p> <p>10 Q If I use a term that you don't 10:32:58AM</p> <p>11 understand or you don't hear, again, just ask me</p> <p>12 to repeat it or rephrase it, okay?</p> <p>13 A Okay. 10:33:05AM</p> <p>14 Q Because if you do answer a question, 10:33:07AM</p> <p>15 I'm going to assume that you both understood it</p> <p>16 and that you heard it.</p> <p>17 A Okay. 10:33:12AM</p> <p>18 MR. NOVIKOFF: Note my objection. 10:33:13AM</p> <p>19 BY MR. GOODSTADT: 10:33:14AM</p> <p>20 Q It's important that you let me finish 10:33:14AM</p> <p>21 my question, just as it's important that I let</p> <p>22 you finish your answer. It's just again so we</p> <p>23 have a clean record; is that okay?</p> <p>24 A Yes. 10:33:19AM</p> <p>25 Q If there's any point in time that you 10:33:20AM</p>	<p style="text-align: right;">Page 39</p> <p>1 GEORGE HESSE</p> <p>2 MR. NOVIKOFF: Objection. 10:34:01AM</p> <p>3 Just allegations in the complaint or 10:34:02AM</p> <p>4 just allegations at all?</p> <p>5 MR. GOODSTADT: Allegations generally. 10:34:06AM</p> <p>6 MR. NOVIKOFF: Okay. Objection to 10:34:09AM</p> <p>7 form.</p> <p>8 MR. CONNOLLY: Allegations that would 10:34:11AM</p> <p>9 have been ultimately contained in the</p> <p>10 complaint.</p> <p>11 MR. NOVIKOFF: Yeah, I don't 10:34:15AM</p> <p>12 understand the question.</p> <p>13 BY MR. GOODSTADT: 10:34:17AM</p> <p>14 Q Do you understand what I mean by 10:34:18AM</p> <p>15 allegations?</p> <p>16 A Just repeat the question, please. 10:34:=</p> <p>17 19AM</p> <p>18 Q When did you first learn that the 10:34:21AM</p> <p>19 plaintiffs in this case were making allegations</p> <p>20 against the beach and you?</p> <p>21 MR. NOVIKOFF: Objection. Form. 10:34:27AM</p> <p>22 A I don't recall the date. 10:34:29AM</p> <p>23 Q Do you recall how you learned of it? 10:34:30AM</p> <p>24 A I believe I received a notice of claim 10:34:34AM</p> <p>25 at some point. I don't remember the date.</p> <p>26 Q How did you receive that notice of 10:34:41AM</p>
<p style="text-align: right;">Page 38</p> <p>1 GEORGE HESSE</p> <p>2 feel that you need to take a break or you want</p> <p>3 to take a recess, just let me know. I'll be</p> <p>4 happy to accommodate that, okay?</p> <p>5 A Yes. 10:33:28AM</p> <p>6 Q Are you presently taking any 10:33:28AM</p> <p>7 medications?</p> <p>8 A No. 10:33:32AM</p> <p>9 Q Is there anything that can think of 10:33:32AM</p> <p>10 that would prevent you from testifying fully and</p> <p>11 truthfully today?</p> <p>12 A No. 10:33:38AM</p> <p>13 Q Are you sick at all today? 10:33:39AM</p> <p>14 A No. 10:33:40AM</p> <p>15 Q Are you represented by an attorney in 10:33:44AM</p> <p>16 connection with this matter?</p> <p>17 A Yes. 10:33:48AM</p> <p>18 Q Who is that? 10:33:48AM</p> <p>19 A Kevin Connolly. 10:33:49AM</p> <p>20 Q And he's sitting right next to you, 10:33:50AM</p> <p>21 correct?</p> <p>22 A Correct. 10:33:53AM</p> <p>23 Q When did you first learn that the 10:33:53AM</p> <p>24 plaintiffs were making allegations against Ocean</p> <p>25 Beach and you in connection with this matter?</p>	<p style="text-align: right;">Page 40</p> <p>1 GEORGE HESSE</p> <p>2 claim?</p> <p>3 A I don't recall. 10:34:46AM</p> <p>4 Q You don't recall whether it was 10:34:48AM</p> <p>5 delivered by mail, by hand, overnight, E-mail,</p> <p>6 fax?</p> <p>7 A I don't recall. 10:34:54AM</p> <p>8 Q Do you recall where you were when you 10:34:55AM</p> <p>9 received it?</p> <p>10 A I don't recall. 10:34:58AM</p> <p>11 Q Who did you speak with about the 10:35:03AM</p> <p>12 notice of claim when you received it?</p> <p>13 MR. NOVIKOFF: Objection. 10:35:08AM</p> <p>14 A I believe the first person I had 10:35:09AM</p> <p>15 spoken to was Maryann Minerva.</p> <p>16 Q Who's she? 10:35:17AM</p> <p>17 A She's the village administrator. 10:35:18AM</p> <p>18 Q Did you reach out to her or did she 10:35:26AM</p> <p>19 reach out to you in connection with that</p> <p>20 discussion?</p> <p>21 A I don't know. 10:35:31AM</p> <p>22 MR. NOVIKOFF: Objection. Form. 10:35:33AM</p> <p>23 A I don't recall. 10:35:34AM</p> <p>24 Q Was it on the phone or in person or 10:35:34AM</p> <p>25 some other means?</p>

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1 **GEORGE HESSE**

2 MR. NOVIKOFF: Objection. Form. 10:35:37AM

3 A I don't recall. 10:35:38AM

4 **Q What did you discuss with her? 10:35:41AM**

5 A We may have read the complaint 10:35:47AM

6 together and may have made some opinions about

7 it.

8 MR. CONNOLLY: Are we speaking of the 10:35:56AM

9 complaint or the notice of claim?

10 THE WITNESS: Notice of claim. 10:36:00AM

11 BY MR. GOODSTADT: 10:36:01AM

12 **Q And tell me the substance of the 10:36:01AM**

13 **conversation.**

14 A I really don't recall the substance. 10:36:04AM

15 **Q What opinions did you guys reach at 10:36:06AM**

16 **that time?**

17 MR. NOVIKOFF: Objection. Form. 10:36:10AM

18 A I was upset. 10:36:13AM

19 **Q How come? 10:36:16AM**

20 A Because I thought it was baseless. 10:36:18AM

21 **Q Did you discuss that with Ms. Minerva 10:36:22AM**

22 **at the time?**

23 A Yes. 10:36:25AM

24 **Q What did you tell her about your 10:36:25AM**

25 **belief that it was baseless?**

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1 **GEORGE HESSE**

2 A I figured that the entire complaint 10:36:30AM

3 was out of line and it was just based on lies.

4 **Q Did you tell her why you thought it 10:36:39AM**

5 **was based on lies?**

6 A I don't recall. 10:36:42AM

7 **Q What did she say to you in that 10:36:44AM**

8 **conversation?**

9 MR. NOVIKOFF: Objection. 10:36:47AM

10 A She agreed with me. 10:36:47AM

11 **Q Do you recall anything else that she 10:36:52AM**

12 **said other than for saying I agree with you?**

13 A No. 10:36:55AM

14 **Q Do you recall anything else that was 10:36:56AM**

15 **stated during that conversation other than what**

16 **you've testified to?**

17 A I don't recall at this time. 10:37:01AM

18 **Q Is there anything that you can think 10:37:02AM**

19 **of that would refresh your recollection?**

20 A No. 10:37:06AM

21 **Q Did you take any notes of the 10:37:07AM**

22 **conversation?**

23 A No. 10:37:08AM

24 **Q Was anyone else there? 10:37:08AM**

25 A No. 10:37:10AM

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1 **GEORGE HESSE**

2 **Q How long did the conversation last? 10:37:10AM**

3 A I don't recall. 10:37:12AM

4 **Q Did you speak to -- well, strike that. 10:37:16AM**

5 **Who else did you speak with about the 10:37:19AM**

6 **notice of claim?**

7 MR. NOVIKOFF: Objection. Form. 10:37:23AM

8 A I'm sure at some point I spoke to 10:37:25AM

9 Joseph Loeffler.

10 **Q Do you actually recall speaking with 10:37:33AM**

11 **him?**

12 A Not particularly, no. 10:37:36AM

13 **Q So you don't know whether you actually 10:37:38AM**

14 **spoke with him?**

15 A I don't recall. 10:37:43AM

16 **Q Can you think of anything that would 10:37:45AM**

17 **refresh your recollection?**

18 A No. 10:37:47AM

19 **Q What led you to believe that you 10:37:47AM**

20 **likely spoke with him?**

21 A Well, at the time, he was a trustee. 10:37:52AM

22 And I don't remember how we got into contact

23 with each other, but I'm sure at some point we

24 did speak about it.

25 **Q Did you speak with any other trustees 10:38:07AM**

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1 **GEORGE HESSE**

2 **other than for Mr. Loeffler about the notice of**

3 **claim?**

4 A No trustees, no. 10:38:11AM

5 **Q Why would you speak to Loeffler as 10:38:13AM**

6 **opposed to the other trustees?**

7 A I believe at that point, when he was a 10:38:20AM

8 trustee and Mayor Loeffler was -- Mayor Rogers

9 was in office, I don't want to say that he was a

10 liaison, but I think he understood the police

11 department's operation better than she would, so

12 I think he would just kind of interpret things

13 for her.

14 **Q Did he have a title of police liaison 10:38:41AM**

15 **at the time?**

16 A No. 10:38:45AM

17 **Q Does that title exist? 10:38:45AM**

18 A Not that I'm aware of, no. 10:38:47AM

19 **Q You don't recall any of the substance 10:38:54AM**

20 **of that conversation?**

21 A I don't recall, no. 10:38:57AM

22 **Q Did you speak with Mayor Rogers about 10:38:58AM**

23 **the notice of claim?**

24 A Yes. 10:39:01AM

25 **Q And when was that? 10:39:01AM**

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1 **GEORGE HESSE**

2 A Repeat that. 10:39:03AM

3 **Q When was that conversation? 10:39:04AM**

4 A I don't recall the date. 10:39:05AM

5 **Q Was that in person or on the phone? 10:39:06AM**

6 A In person. 10:39:09AM

7 **Q Just going back to the Loeffler 10:39:09AM**

8 **discussion, was that in person or on the phone?**

9 A In person. 10:39:14AM

10 **Q Was anyone else there? 10:39:15AM**

11 A Not that I recall. 10:39:17AM

12 **Q Did you ever refer to Loeffler as the 10:39:20AM**

13 **police liaison?**

14 A Nothing official that I can recall. 10:39:25AM

15 **Q How about unofficially, did you ever 10:39:29AM**

16 **refer to him as the police liaison?**

17 A Not that I recall. 10:39:34AM

18 **Q So it's possible that you did? 10:39:34AM**

19 A Yeah. 10:39:36AM

20 MR. NOVIKOFF: Objection. 10:39:37AM

21 BY MR. GOODSTADT: 10:39:38AM

22 **Q When did you speak with Rogers, was 10:39:41AM**

23 **that before or after speaking with Loeffler,**

24 **about the notice of claim?**

25 A I don't recall if it was before or 10:39:48AM

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1 **GEORGE HESSE**

2 after.

3 **Q What did you discuss with Mayor Rogers 10:39:53AM**

4 **about the notice of claim?**

5 A Just that, in my opinion, it was 10:39:57AM

6 baseless.

7 **Q And what did she say? 10:40:00AM**

8 A I don't remember her reaction. 10:40:03AM

9 **Q Do you remember anything she said to 10:40:04AM**

10 **you in that conversation?**

11 A Not in reference to the notice of 10:40:12AM

12 claim.

13 (Whereupon, the referred to portion 10:40:18AM

14 was read back by the court reporter: Q, Do

15 you remember anything she said to you in

16 that conversation? A, Not in reference to

17 the notice of claim.)

18 BY MR. GOODSTADT: 10:40:27AM

19 **Q How about in reference to any of the 10:40:27AM**

20 **allegations in the notice of claim?**

21 MR. NOVIKOFF: Objection. Form. 10:40:31AM

22 A Not that I recall. 10:40:32AM

23 **Q Do you recall anything she said to you 10:40:33AM**

24 **during that conversation?**

25 A Yes. 10:40:36AM

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1 **GEORGE HESSE**

2 **Q What did she say you to during the 10:40:36AM**

3 **conversation that you recall?**

4 A She had brought up Ed Paradiso. 10:40:40AM

5 **Q What did she say about Ed Paradiso? 10:40:43AM**

6 A That she was disappointed in him. 10:40:45AM

7 **Q Did she tell you she was disappointed 10:40:50AM**

8 **in Ed Paradiso?**

9 A Because he just kind of fell off the 10:40:55AM

10 face of the earth and really had no

11 participation in anything that was happening to

12 the police department, and that was it.

13 **Q Was Ed Paradiso on active duty at the 10:41:05AM**

14 **time?**

15 A At that point, no. 10:41:11AM

16 **Q So she was referring to him not 10:41:14AM**

17 **participating in anything while he was not**

18 **active?**

19 MR. NOVIKOFF: Objection. 10:41:18AM

20 A He was on medical leave, I guess. I 10:41:20AM

21 don't know what the terminology is they

22 officially used, but he was out.

23 **Q But that's what she was saying, she 10:41:29AM**

24 **was disappointed that he wasn't participating in**

25 **anything at that time, while he was on the**

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1 **GEORGE HESSE**

2 **medical or whatever the term is?**

3 MR. NOVIKOFF: Objection to form. 10:41:38AM

4 A That's correct. 10:41:39AM

5 **Q Did she say anything else about Ed 10:41:40AM**

6 **Paradiso?**

7 A Not that I recall. 10:41:42AM

8 **Q Did you respond to her disappointment 10:41:43AM**

9 **about Paradiso?**

10 A I agreed with her. 10:41:46AM

11 **Q Did you expect Paradiso to participate 10:41:49AM**

12 **while he was out on medical leave?**

13 MR. NOVIKOFF: Objection. 10:41:54AM

14 A I would -- yes, I expected him to 10:41:55AM

15 participate in something.

16 **Q What did you expect him to participate 10:41:58AM**

17 **in?**

18 A He was still the chief of the police 10:42:02AM

19 department. He has some liabilities involved in

20 everything that we were doing.

21 **Q Do you recall anything else that you 10:42:14AM**

22 **discussed with Ms. Rogers during that**

23 **conversation?**

24 A No. 10:42:18AM

25 **Q And when she said that Ed Paradiso 10:42:21AM**

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1 **GEORGE HESSE**

2 wasn't participating in anything, was she

3 talking about the stuff that was set forth in

4 the notice of claim or just generally wasn't

5 participating?

6 A I think generally. 10:42:31AM

7 **Q Did you ever speak to Ed Paradiso 10:42:35AM**

8 about the notice of claim?

9 A Yes. 10:42:39AM

10 **Q When was that? 10:42:40AM**

11 A I don't recall. 10:42:42AM

12 **Q Was that before or after you spoke 10:42:44AM**

13 with Rogers?

14 A I don't recall. 10:42:47AM

15 **Q Was it in person or on the phone? 10:42:49AM**

16 A On the phone. 10:42:51AM

17 **Q Did you call him or he called you? 10:42:52AM**

18 A He called me. 10:42:54AM

19 **Q Did he call you at home or at the 10:42:55AM**

20 station or elsewhere?

21 A At the station. 10:43:00AM

22 **Q Approximately how long after you 10:43:02AM**

23 received the notice of claim did he call you to

24 discuss it?

25 A I don't recall. 10:43:07AM

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1 **GEORGE HESSE**

2 **Q And tell me everything you recall from 10:43:09AM**

3 that conversation.

4 A I expressed my disappointment in him 10:43:18AM

5 as the chief and that I believed that the

6 majority of what was going on with me in

7 reference to the job was his fault.

8 **Q What do you mean by that? 10:43:29AM**

9 A Just that I'm getting blamed for 10:43:32AM

10 absolutely everything, and he's chief of police.

11 **Q Do you recall what he said in response 10:43:42AM**

12 to that?

13 A Just a lot of, oh, I understand, 10:43:45AM

14 Georgie.

15 **Q Do you recall anything else you said 10:43:48AM**

16 other than for the fact that you were getting

17 blamed for everything and he's the chief of

18 police?

19 A Repeat that. 10:43:56AM

20 **Q Did you discuss anything else other 10:43:57AM**

21 than for telling him that you're getting blamed

22 for everything even though he's the chief of

23 police?

24 A No. 10:44:05AM

25 **Q Did you discuss the substance of the 10:44:05AM**

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1 **GEORGE HESSE**

2 claims in the notice of claim with him?

3 A No. 10:44:09AM

4 **Q Have you ever discussed the substance 10:44:11AM**

5 of the allegations in the notice of claim or the

6 complaint in this lawsuit with Ed Paradiso?

7 MR. NOVIKOFF: Objection to form. 10:44:20AM

8 A No. I don't recall. 10:44:21AM

9 **Q What was the everything that you 10:44:29AM**

10 thought you were getting blamed for?

11 A Just the overall operation of the 10:44:34AM

12 police department. Everything was just falling

13 onto my lap. I was carrying the burden of

14 everything that happened to be going wrong.

15 **Q Was there anything going wrong other 10:44:44AM**

16 than for receiving a notice of claim from the

17 plaintiff in this matter?

18 MR. NOVIKOFF: Objection to form. 10:44:51AM

19 A We had some internal issues. 10:44:52AM

20 **Q What were those. 10:44:54AM**

21 MR. NOVIKOFF: Well, were you done 10:44:56AM

22 with your answer?

23 BY MR. GOODSTADT: 10:44:59AM

24 **Q You can finish. I'm sorry. We have 10:44:59AM**

25 that understanding that we're going to let each

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1 **GEORGE HESSE**

2 other finish.

3 A We were having some internal issues, 10:45:04AM

4 and I believe also the -- an incident that I was

5 involved with later.

6 **Q Anything other than for the notice of 10:45:21AM**

7 claim, the internal issues and that incident

8 that you're referring to when you told Chief

9 Paradiso that you were getting blamed for

10 everything?

11 MR. NOVIKOFF: Note my objection to 10:45:30AM

12 the form.

13 A I don't recall. 10:45:32AM

14 **Q What internal issues were you 10:45:33AM**

15 referring to?

16 A We had an incident back in 2004, and 10:45:37AM

17 we all know it here at this table, called the

18 Halloween incident. There was a lot of

19 animosity within the police department that

20 needed to be rectified that was never done.

21 **Q Animosity between who? 10:45:58AM**

22 A Employees. 10:46:00AM

23 **Q Who were the employees that there was 10:46:01AM**

24 animosity between?

25 A That would be Kevin Lamm, Frank 10:46:04AM

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1 GEORGE HESSE

2 Fiorillo, Tom Snyder, Gary Bosetti, Richard

3 Bosetti. There may have been some others that I

4 don't recall at this time.

5 **Q Do you recall anyone else that there 10:46:17AM**

6 **was animosity between that you're referring to?**

7 A Repeat that. 10:46:21AM

8 **Q Anyone else that there was animosity 10:46:22AM**

9 **between that you're referring when you say there**

10 **was animosity in the department?**

11 A I don't recall at this time. 10:46:26AM

12 **Q Ty Bacon? 10:46:28AM**

13 A There may have been. I don't know. 10:46:31AM

14 **Q Patrick Cherry? 10:46:32AM**

15 A No. 10:46:34AM

16 **Q John Dyer? 10:46:37AM**

17 A No. 10:46:39AM

18 **Q And when you say there was animosity, 10:46:43AM**

19 **it was between Lamm, Fiorillo and Snyder on one**

20 **side and the Bosettis on the other?**

21 MR. NOVIKOFF: Objection to form. 10:46:52AM

22 A Yes. 10:46:53AM

23 **Q Was there animosity between you and 10:46:55AM**

24 **the Bosettis in connection with the Halloween**

25 **incident?**

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1 GEORGE HESSE

2 A No. 10:47:00AM

3 **Q Was there animosity between you and 10:47:01AM**

4 **Fiorillo, Snyder and Lamm?**

5 A No. 10:47:04AM

6 **Q When did that animosity start? 10:47:13AM**

7 A Probably right -- right away, in 2004, 10:47:18AM

8 October 31st.

9 **Q So before that, there was no animosity 10:47:23AM**

10 **between the Bosettis and those three plaintiffs**

11 **that you're referring to?**

12 A Not that I'm aware of. 10:47:30AM

13 MR. NOVIKOFF: Objection. 10:47:32AM

14 BY MR. GOODSTADT: 10:47:32AM

15 **Q Were any other -- and we'll discuss 10:47:35AM**

16 **Halloween a little bit later. But were there**

17 **any other internal issues that you're referring**

18 **to other than for the Halloween incident?**

19 A There was some regular insubordination 10:47:45AM

20 from some members of the police department and

21 myself.

22 **Q And who was that? 10:47:51AM**

23 A That would be Frank Fiorillo and Kevin 10:47:52AM

24 Lamm.

25 **Q Anyone else? 10:47:58AM**

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1 GEORGE HESSE

2 A Not that I recall. 10:48:00AM

3 **Q And what insubordination are you 10:48:03AM**

4 **referring to with respect to Fiorillo?**

5 A There are some particular times where 10:48:08AM

6 he was asked to do something and flat-out

7 refused.

8 **Q And what were those things he was 10:48:15AM**

9 **asked to do that he refused?**

10 A Well, there was one incident where I 10:48:19AM

11 asked him to just take a little Windex and

12 squirt one of the windows on the police car, and

13 I was told to go fuck myself, he wasn't gonna do

14 it.

15 **Q Did you write him up for that? 10:48:31AM**

16 A Yes, I did. 10:48:33AM

17 **Q Any other incidents that you're 10:48:39AM**

18 **referring to other than for squirting the Windex**

19 **on the police window?**

20 A Yeah. There was a time where he and 10:48:46AM

21 Kevin Lamm came to me and asked me if they

22 could -- when they're writing summons, if they

23 could take bail out on the street in a police

24 car, and I told them no, you cannot do that;

25 it's called station house bail for a reason.

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1 GEORGE HESSE

2 They went over my head. They went to 10:49:01AM

3 Judge Russell at the time. Judge Russell, not

4 being a criminal judge but a civil judge or

5 attorney, gave them wrong information,

6 misinformation, and told them that they can do

7 it.

8 They asked me again. I told them 10:49:17AM

9 again, no, you cannot do it, and I actually

10 caught them taking money from somebody they were

11 writing up in the police car just outside the

12 police department, and they tried to hide it

13 from me, because they hid the bail book in -- I

14 believe Kevin Lamm came in, grabbed the bail

15 book and went outside and tried to take bail.

16 **Q Were you upset that they went to Judge 10:49:41AM**

17 **Powell? Is that his name?**

18 A Russell. 10:49:45AM

19 **Q Russell. Were you upset that they 10:49:46AM**

20 **went to Judge Russell?**

21 A No, I wasn't upset. It was just 10:49:50AM

22 incorrect procedure.

23 **Q It's a break in the chain of command? 10:49:55AM**

24 A You could say that. 10:49:57AM

25 **Q Would you say that? 10:49:58AM**

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1 **GEORGE HESSE**

2 A No. 10:49:59AM

3 **Q You wouldn't say that's a break in the 10:49:59AM**

4 **chain of command?**

5 A No. Judge is not part of the chain of 10:50:02AM

6 command.

7 **Q So it would be breaking the chain of 10:50:05AM**

8 **command?**

9 MR. NOVIKOFF: Objection. Form. 10:50:09AM

10 A He's not part of the chain of command. 10:50:10AM

11 **Q So they went outside the chain of 10:50:13AM**

12 **command?**

13 A Yes. 10:50:16AM

14 **Q Is that improper? 10:50:16AM**

15 A That's improper, yes. 10:50:17AM

16 **Q Did you write them up for that 10:50:21AM**

17 **incident?**

18 A No. 10:50:24AM

19 **Q How come? 10:50:25AM**

20 A I counseled them right on the spot. 10:50:26AM

21 **Q Did you memorialize that incident in 10:50:30AM**

22 **writing in any way?**

23 A No. 10:50:34AM

24 **Q Any other incidents of insubordination 10:50:36AM**

25 **that you're referring to with respect to Lamm or**

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1 **GEORGE HESSE**

2 **Fiorillo?**

3 A With Lamm, he had a habit of putting 10:50:45AM

4 handcuffs on somebody urinating in public and

5 dragging them down through town and bringing

6 them to the police department, and he was told

7 not to do that. Just write the summons on the

8 spot.

9 **Q Did you write him up for that? 10:51:02AM**

10 A No. 10:51:04AM

11 **Q Did he violate your direction of just 10:51:05AM**

12 **writing them up on the spot?**

13 A On a few occasions, yes. 10:51:11AM

14 **Q Even though he was allegedly 10:51:14AM**

15 **insubordinate on a few occasions, you didn't**

16 **write him up for it at all?**

17 A No. I counseled him. 10:51:21AM

18 **Q Did you memorialize it in writing in 10:51:22AM**

19 **any way?**

20 A No. 10:51:25AM

21 **Q Did any of the -- strike that. 10:51:25AM**

22 **Any other incidents of insubordination 10:51:35AM**

23 **that you're referring to when you testified a**

24 **moment ago about insubordination with respect to**

25 **Fiorillo and Lamm?**

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1 **GEORGE HESSE**

2 MR. NOVIKOFF: Objection. Form. 10:51:43AM

3 A Right now, I don't recall. 10:51:44AM

4 **Q Any other internal issues other than 10:51:45AM**

5 **for the Halloween incident and the**

6 **insubordination by Fiorillo and Lamm?**

7 A As of right now, I don't recall. 10:51:53AM

8 **Q Anything that would refresh your 10:51:55AM**

9 **recollection?**

10 A I don't recall. I don't know. 10:51:57AM

11 **Q Do you have any notes anywhere -- 10:51:58AM**

12 A I have no notes. 10:51:59AM

13 **Q -- in a file? 10:52:00AM**

14 **And then you testified that you're 10:52:04AM**

15 **referring to an incident that you were involved**

16 **with later when you were talking about being**

17 **blamed for everything. What were referring to**

18 **when you said the incident that you were**

19 **involved in later?**

20 A Repeat that. 10:52:17AM

21 **Q Yeah, I believe before you 10:52:19AM**

22 **testified -- when I asked you what was the**

23 **everything that you thought you were getting**

24 **blamed for, you said it was the notice of claim,**

25 **internal issues and the incident that you were**

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1 **GEORGE HESSE**

2 **involved in later. What was the incident that**

3 **you were involved in later that you were**

4 **referring to?**

5 A The Gilbert incident. Sam Gilbert. 10:52:31AM

6 **Q And what was that? 10:52:34AM**

7 A That was an arrest that was made. 10:52:35AM

8 **Q That you made? 10:52:45AM**

9 A I was an assist on the arrest, but 10:52:49AM

10 another police officer made the arrest.

11 **Q And what do you mean by "incident"? 10:52:57AM**

12 **Was it anything more than just an arrest?**

13 A No. 10:53:01AM

14 **Q Did Mr. Gilbert sue you? 10:53:03AM**

15 A Yes. 10:53:05AM

16 **Q For what? 10:53:05AM**

17 A Excessive force -- he alleged that we 10:53:06AM

18 brutally beat him -- and false arrest, violating

19 his civil rights.

20 **Q And that matter is still pending, 10:53:19AM**

21 **correct?**

22 A The civil matter, yes. 10:53:21AM

23 **Q Who represents you in the civil 10:53:23AM**

24 **matter?**

25 A I believe his name is Mark Anesh. 10:53:25AM

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1 GEORGE HESSE

2 **Q Mr. Anesh is at Wilson, Elser, 10:53:34AM**

3 **Moskowitz, Edelman and Dicker?**

4 A It's possible. I don't recall. 10:53:39AM

5 And there is another attorney that is 10:53:40AM

6 on the case. I believe her last name is Slim,

7 S-L-I-M. I don't remember her first name. I've

8 only spoken to her once.

9 **Q Who are the other defendants in that 10:53:52AM**

10 **matter?**

11 MR. NOVIKOFF: On the civil or on the 10:53:56AM

12 criminal?

13 MR. GOODSTADT: On the civil matter. 10:53:57AM

14 That's what we're talking about.

15 A On the civil? I believe that would be 10:54:00AM

16 myself. There was Arnold Hardman, possibly --

17 well, the Village of Ocean Beach. To tell you

18 the truth, I don't recall who else is named on

19 the suit itself.

20 **Q And you were indicted for that? 10:54:22AM**

21 A That's correct. 10:54:23AM

22 **Q And you were tried for that? 10:54:24AM**

23 A That's correct. 10:54:25AM

24 **Q And you were acquitted, correct? 10:54:26AM**

25 A That's correct. 10:54:29AM

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1 GEORGE HESSE

2 **Q Did you testify in the criminal trial? 10:54:29AM**

3 A No. 10:54:32AM

4 **Q And other than for this matter, the 10:54:39AM**

5 **Gilbert matter, the other matters that you**

6 **testified to that you testified in a deposition,**

7 **have you ever been sued civilly?**

8 MR. CONNOLLY: Objection, Andrew, only 10:54:53AM

9 that I don't believe there's been any

10 testimony that he testified in the Gilbert

11 matter.

12 MR. GOODSTADT: Well, I'm asking now 10:54:59AM

13 has he been sued in any matter.

14 BY MR. GOODSTADT: 10:55:02AM

15 **Q Other than for Gilbert, this incident 10:55:02AM**

16 **and perhaps the other four -- I know you don't**

17 **know if you were actually sued in the other**

18 **four. But putting those four aside, Gilbert and**

19 **this matter, have you ever been sued civilly?**

20 A Yes. I do have one other one. 10:55:11AM

21 **Q And what's the other one? 10:55:13AM**

22 A Jesse Prisco. Actually, I forgot 10:55:15AM

23 about that one.

24 **Q And what is Mr. Prisco suing you for? 10:55:23AM**

25 A Excessive force and maybe violating 10:55:25AM

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1 GEORGE HESSE

2 his civil rights. I don't recall what else.

3 **Q So let's go back to Gilbert quickly, 10:55:38AM**

4 **and we'll get into that in some more detail**

5 **later. In Gilbert, you testified already that**

6 **you were indicted on that matter and tried and**

7 **acquitted. Was Gilbert charged with any**

8 **criminal conduct with respect to that arrest?**

9 A Yes. 10:55:54AM

10 **Q And what was he charged with? 10:55:54AM**

11 A Resisting arrest and -- did I say -- I 10:55:56AM

12 said resisting arrest. Disorderly conduct,

13 resisting arrest, and he was also issued a

14 littering ticket.

15 **Q And who was the arresting officer? 10:56:11AM**

16 A Arnold Hardman. 10:56:13AM

17 **Q And was he charged with those crimes 10:56:24AM**

18 **that he was arrested for?**

19 A Mr. Gilbert? 10:56:29AM

20 **Q Yes. 10:56:30AM**

21 A Yes. 10:56:30AM

22 **Q And was there a trial in that matter? 10:56:31AM**

23 A No. 10:56:33AM

24 **Q Do you know how that -- those charges 10:56:34AM**

25 **were resolved, if at all?**

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1 GEORGE HESSE

2 A I believe he pled guilty to the 10:56:38AM

3 littering and they dismissed the other charges

4 in satisfaction.

5 **Q Okay. So there's no criminal charges 10:56:50AM**

6 **against him still pending, correct?**

7 A No. 10:56:55AM

8 **Q Let's go to Prisco. Who represents 10:56:55AM**

9 **you in the Prisco matter?**

10 A I don't recall his name. 10:57:00AM

11 **Q And who is Mr. Prisco suing other than 10:57:07AM**

12 **for you?**

13 A I'm sure the Village of Ocean Beach. 10:57:10AM

14 I don't recall who else is listed. I'm sure

15 there's a bunch of John Does, but I don't know.

16 **Q And what is Mr. Prisco suing you and 10:57:19AM**

17 **the beach for?**

18 A I believe I said that already. 10:57:24AM

19 **Q Excessive force? 10:57:25AM**

20 A Excessive use of force and civil right 10:57:25AM

21 violation.

22 **Q You did say that. I apologize. 10:57:30AM**

23 **What did Mr. Prisco allege that you 10:57:32AM**

24 **did that amounted to excessive force and**

25 **violations of his civil rights?**

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1 **GEORGE HESSE**

2 MR. NOVIKOFF: In the complaint? 10:57:39AM

3 MR. GOODSTADT: In the complaint. 10:57:41AM

4 A He said that I dragged him down a 10:57:41AM

5 flight of stairs and that I beat him on the

6 street and falsely arrested him.

7 **Q And were any criminal charges brought 10:57:51AM**

8 **against Mr. Prisco with respect to that matter?**

9 A Yes. 10:57:56AM

10 **Q What were those charges? 10:57:56AM**

11 A There was an assault second. There 10:57:57AM

12 was disorderly conduct, resisting arrest. I

13 believe there was some sort of a noise violation

14 under the village code.

15 **Q Was he charged with those crimes that 10:58:08AM**

16 **he was arrested for?**

17 A Yes. 10:58:12AM

18 **Q And what was the outcome of those 10:58:12AM**

19 **charges?**

20 A I believe he pled to, I want to say 10:58:15AM

21 disorderly conduct, but I don't recall.

22 **Q Were there any criminal charges 10:58:27AM**

23 **brought against you or any other employees of**

24 **the village --**

25 A No. 10:58:33AM

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1 **GEORGE HESSE**

2 **Q -- with respect to that case? 10:58:34AM**

3 **Now, you didn't testify under oath at 10:58:36AM**

4 **all in the Prisco or the Gilbert matter, the**

5 **civil suits, right?**

6 A No. Right. 10:58:43AM

7 **Q Now, just going back to what we 10:58:47AM**

8 **discussed before about your discussions with**

9 **people when you received the notice of claim.**

10 **Did you discuss the notice of claim at all with**

11 **Gary Bosetti?**

12 A I may have. 10:58:56AM

13 **Q And when did you discuss it with him? 10:58:58AM**

14 A I don't recall. 10:59:00AM

15 **Q Do you recall where you were when you 10:59:00AM**

16 **discussed it?**

17 A No. 10:59:02AM

18 MR. NOVIKOFF: Objection. 10:59:03AM

19 BY MR. GOODSTADT: 10:59:04AM

20 **Q Do you recall the substance of the 10:59:07AM**

21 **discussion that you had with him with respect to**

22 **the notice of claim?**

23 MR. NOVIKOFF: Objection. 10:59:15AM

24 MR. CONNOLLY: Objection. 10:59:16AM

25 A No. 10:59:17AM

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1 **GEORGE HESSE**

2 **Q How about Richard Bosetti, did you 10:59:17AM**

3 **discuss the notice of claim with him?**

4 A I don't recall. 10:59:21AM

5 **Q Have you discussed the complaint in 10:59:21AM**

6 **this lawsuit or any of the allegations in the**

7 **complaint with Gary Bosetti?**

8 MR. CONNOLLY: Objection, Andrew, to 10:59:27AM

9 the extent that I don't know if we've gone

10 through whether Mr. Hesse had received a

11 copy of the complaint.

12 BY MR. GOODSTADT: 10:59:34AM

13 **Q You were served with a copy of the 10:59:35AM**

14 **complaint in this lawsuit, correct?**

15 A I believe so. 10:59:38AM

16 **Q Have you read the complaint in this 10:59:39AM**

17 **lawsuit?**

18 A Yes. 10:59:41AM

19 **Q Did you ever discuss the complaint or 10:59:42AM**

20 **any allegations in the complaint with Gary**

21 **Bosetti subsequent to you receiving it?**

22 A I don't recall. 10:59:49AM

23 **Q Did you ever discuss the complaint or 10:59:50AM**

24 **any allegations in the complaint with Richard**

25 **Bosetti subsequent to your receiving it?**

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1 **GEORGE HESSE**

2 A I don't recall. 10:59:56AM

3 **Q Did you ever discuss the complaint or 10:59:56AM**

4 **any allegation in the complaint with yo Loeffler**

5 **subsequent to you receiving it?**

6 A Yes. 11:00:03AM

7 **Q How many times? 11:00:04AM**

8 A I don't recall. 11:00:05AM

9 **Q Approximately how many times? 11:00:05AM**

10 A I really don't know. 11:00:07AM

11 **Q Do you recall the substance of any of 11:00:09AM**

12 **those conversations that you had with Joe**

13 **Loeffler about the complaint?**

14 A That we both felt that it was 11:00:14AM

15 baseless.

16 **Q Did you discuss why you felt it was 11:00:17AM**

17 **baseless with Joe Loeffler?**

18 A Just it's all lies. 11:00:21AM

19 **Q But did you discuss what you thought 11:00:23AM**

20 **were lies?**

21 A The whole thing. 11:00:25AM

22 **Q Every word in the complaint you think 11:00:31AM**

23 **is a lie?**

24 A Yes. 11:00:33AM

25 **Q Do you recall anything that 11:00:36AM**

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1 **GEORGE HESSE**

2 **Mr. Loeffler said during those conversations?**

3 A I don't recall. 11:00:41AM

4 **Q You don't recall anything he said? 11:00:42AM**

5 A I don't recall. 11:00:45AM

6 **Q Do you have anything that would 11:00:46AM**

7 **refresh your recollection that you can think of?**

8 A At this time, no. 11:00:51AM

9 **Q Do you have any notes? Did you ever 11:00:51AM**

10 **have any written correspondence with him about**

11 **this matter?**

12 A Not that I'm aware of. 11:00:55AM

13 **Q Did you ever discuss Mitch Burns with 11:00:57AM**

14 **Joe Loeffler?**

15 A No. 11:01:01AM

16 MR. NOVIKOFF: Objection only as to 11:01:01AM

17 time frame.

18 MR. GOODSTADT: Ever. 11:01:04AM

19 A No. 11:01:05AM

20 **Q Did you ever discuss the complaint or 11:01:09AM**

21 **any allegations in the complaint with Patrick**

22 **Cherry?**

23 A Yes. 11:01:15AM

24 **Q And when I say Patrick Cherry, I'm 11:01:16AM**

25 **referring to Patrick Cherry, Sr. Is that fair?**

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1 **GEORGE HESSE**

2 A Yes. 11:01:21AM

3 **Q How many times did you discuss the 11:01:22AM**

4 **complaint or the allegations of the complaint**

5 **with Pat Cherry?**

6 MR. NOVIKOFF: Objection again. Only 11:01:27AM

7 once he received the complaint?

8 MR. GOODSTADT: Subsequent to 11:01:30AM

9 receiving the complaint.

10 A How many times? 11:01:31AM

11 **Q Yes. 11:01:31AM**

12 A I don't recall. 11:01:32AM

13 **Q Approximately how many times? 11:01:32AM**

14 A I really don't recall. 11:01:34AM

15 **Q More than five? 11:01:34AM**

16 A It's possible. 11:01:35AM

17 **Q More than 10? 11:01:36AM**

18 A I don't know. 11:01:37AM

19 **Q When do you recall the first time 11:01:42AM**

20 **speaking with Cherry about the lawsuit?**

21 A I don't recall. 11:01:45AM

22 **Q Was it within six months of receiving 11:01:46AM**

23 **it?**

24 A Safe to say, yes. 11:01:53AM

25 **Q Do you recall the substance of any of 11:01:54AM**

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1 **GEORGE HESSE**

2 **your conversations with Cherry about the**

3 **complaint or any allegations of the complaint?**

4 A Just that it's baseless. 11:02:00AM

5 **Q Did you discuss what you thought was 11:02:01AM**

6 **baseless about it?**

7 A The whole thing. 11:02:04AM

8 **Q Did you discuss specifically, other 11:02:05AM**

9 **than for saying the whole thing, any specific**

10 **allegations?**

11 MR. NOVIKOFF: Objection as to form. 11:02:11AM

12 A Just the basics. 11:02:12AM

13 **Q Did you discuss the basis of why you 11:02:14AM**

14 **thought it was baseless with him?**

15 A Based on lies. 11:02:15AM

16 **Q That's it? You didn't discuss the 11:02:16AM**

17 **actual specific claims at all with him?**

18 A No. 11:02:21AM

19 **Q Did you ever discuss the complaint or 11:02:25AM**

20 **any of the allegations in the complaint with**

21 **anyone from the Rivkin Radler law firm?**

22 A No. 11:02:33AM

23 **Q Did you ever discuss the complaint or 11:02:37AM**

24 **the allegations in the complaint with Natalie**

25 **Rogers?**

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1 **GEORGE HESSE**

2 A Yes. We went over that. 11:02:42AM

3 **Q No. I think we went over the notice 11:02:45AM**

4 **of claim with Natalie Rogers. Now I'm talking**

5 **about the complaint.**

6 MR. NOVIKOFF: Your deposition, and 11:02:50AM

7 this doesn't count to your time, but I think

8 the witness should know that there's a

9 difference between a notice of claim and a

10 complaint, because maybe his prior answers,

11 there was some confusion.

12 BY MR. GOODSTADT: 11:03:02AM

13 **Q Do you understand the difference 11:03:03AM**

14 **between the two?**

15 A Yes. 11:03:05AM

16 **Q I mean, certainly you've received 11:03:06AM**

17 **complaints in the past. You've now testified to**

18 **six or seven times you've been sued, correct?**

19 A Uh-huh. 11:03:13AM

20 **Q And did you receive notices of claims 11:03:14AM**

21 **in those cases, as well?**

22 MR. CONNOLLY: Objection. 11:03:14AM

23 A Yes. 11:03:14AM

24 **Q So you know the difference between the 11:03:15AM**

25 **two, correct?**

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1 **GEORGE HESSE**

2 A Yes. 11:03:18AM

3 Q So now I'm just focused on the 11:03:19AM

4 complaint which was filed in federal court in

5 this lawsuit.

6 Did you ever discuss the complaint or 11:03:24AM

7 any of the allegations in the complaint with

8 Natalie Rogers?

9 A I don't recall. 11:03:33AM

10 Q You don't recall one way or the other? 11:03:34AM

11 A No, I don't. 11:03:37AM

12 Q Is there anything that you can think 11:03:40AM

13 of that would refresh your recollection as to

14 whether you spoke with her?

15 A No. 11:03:45AM

16 Q Did you ever discuss the complaint or 11:03:45AM

17 any allegations in the complaint with Ty Bacon?

18 A Yes. 11:03:50AM

19 Q How many times? 11:03:50AM

20 A I don't know. 11:03:52AM

21 Q Approximately how many times? 11:03:52AM

22 A A couple times, maybe. 11:03:54AM

23 Q More than five? 11:03:56AM

24 A I wouldn't say -- I'd say no. 11:03:57AM

25 Q So somewhere between two and five? 11:04:00AM

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1 **GEORGE HESSE**

2 A It's possible, yes. 11:04:02AM

3 Q Did you discuss it with him within the 11:04:04AM

4 first six months of receiving it?

5 A I don't recall. 11:04:08AM

6 Q What did you discuss with Ty Bacon 11:04:12AM

7 about the complaint or the allegations in the

8 complaint?

9 A It was baseless. 11:04:16AM

10 Q Did you discuss any of the specific 11:04:17AM

11 allegations?

12 A I don't recall. 11:04:20AM

13 Q Did you tell him what you believe was 11:04:20AM

14 baseless in the complaint?

15 A Specifically, I don't recall. 11:04:23AM

16 Q Anything that would refresh your 11:04:26AM

17 recollection?

18 A Not as of right now, no. 11:04:28AM

19 Q What did he say about the complaint, 11:04:30AM

20 if anything?

21 A He agreed with me. Thought it was 11:04:33AM

22 baseless.

23 Q Do you know whether he read the 11:04:36AM

24 complaint?

25 A You know, I don't know. 11:04:38AM

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1 **GEORGE HESSE**

2 Q Did you show him a copy of the 11:04:39AM

3 complaint?

4 A No. 11:04:40AM

5 Q So do you know where he was concluding 11:04:41AM

6 it was baseless if you -- do you know how he

7 reached the conclusion that it was baseless if

8 you don't even know that he read the complaint?

9 MR. NOVIKOFF: Objection to form. 11:05:01AM

10 A Because of where it came from. 11:05:05AM

11 Q What do you mean by that? 11:05:07AM

12 A By the officers who filed it. 11:05:08AM

13 Q So your understanding is that he 11:05:13AM

14 reached the conclusion it was baseless just

15 because it was filed by the five plaintiffs in

16 this case?

17 A It's my opinion, yes. 11:05:21AM

18 Q Did you ever ask him if he knew what 11:05:22AM

19 they were alleging?

20 A No. 11:05:24AM

21 Q Did you ever tell him what they were 11:05:24AM

22 alleging?

23 A I don't recall. 11:05:27AM

24 Q Did you ever show him a copy of the 11:05:27AM

25 complaint?

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1 **GEORGE HESSE**

2 MR. NOVIKOFF: Objection. Asked and 11:05:30AM

3 answered.

4 A No. 11:05:31AM

5 Q Did you show any current or former 11:05:32AM

6 police officers in Ocean Beach a copy of the

7 complaint after you received it?

8 A No. 11:05:40AM

9 Q What was your first law enforcement 11:05:47AM

10 job?

11 A Ocean Beach Police Department. 11:05:51AM

12 Q And when were you hired in the Ocean 11:05:52AM

13 Beach Police Department?

14 A I was sworn in in December of 1992. I 11:05:56AM

15 attended the police academy through '93,

16 graduated in May of '93 and started working that

17 summer.

18 Q Did you attend full-time academy? 11:06:09AM

19 A No, the part-time seasonal police 11:06:12AM

20 academy of Suffolk County.

21 Q How many months is that academy? 11:06:20AM

22 A March, April, May, 5 months. 11:06:24AM

23 Q What's the difference between a 11:06:27AM

24 part-time seasonal academy and a full-time

25 academy?

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<p>1 GEORGE HESSE</p> <p>2 A It's really the hours involved in the 11:06:32AM</p> <p>3 training.</p> <p>4 Q There's more hours with the full-time? 11:06:35AM</p> <p>5 A Correct. 11:06:37AM</p> <p>6 Q So it's more training? 11:06:38AM</p> <p>7 A Yes. 11:06:39AM</p> <p>8 Q When you were sworn in in December 11:06:46AM</p> <p>9 '92, I assume you had already applied for the</p> <p>10 job prior to then?</p> <p>11 A Yes. 11:06:53AM</p> <p>12 Q When did you apply for the job? 11:06:53AM</p> <p>13 A I believe it was the end of the summer 11:06:55AM</p> <p>14 of '92. My interview took place someplace in</p> <p>15 the winter of '92 or the fall.</p> <p>16 Q How did you learn about the job? 11:07:07AM</p> <p>17 A Through a friend -- a friend of my 11:07:10AM</p> <p>18 father's who was a Suffolk County Marine Bureau</p> <p>19 police officer.</p> <p>20 Q And who was that? Who was the friend 11:07:18AM</p> <p>21 of your father?</p> <p>22 A His name was Freddy DeSantis. 11:07:21AM</p> <p>23 Q Did you know anyone working in the 11:07:28AM</p> <p>24 Ocean Beach Police Department prior to</p> <p>25 submitting the application?</p>	<p>1 GEORGE HESSE</p> <p>2 MR. NOVIKOFF: Objection. 11:08:23AM</p> <p>3 A At that time, I don't know. 11:08:24AM</p> <p>4 Q Was there a sergeant at the time you 11:08:27AM</p> <p>5 interviewed?</p> <p>6 A That I was aware of at that time? 11:08:30AM</p> <p>7 Q Yes. 11:08:33AM</p> <p>8 A No. 11:08:33AM</p> <p>9 Q So you interviewed with Golopi and 11:08:38AM</p> <p>10 Paradiso. Did you interview with anyone else?</p> <p>11 A No. 11:08:43AM</p> <p>12 Q And who offered you the job? 11:08:43AM</p> <p>13 A I believe I received a phone call from 11:08:46AM</p> <p>14 Bob Golopi that said they were going to accept</p> <p>15 my application and sponsor me to go to the</p> <p>16 police academy.</p> <p>17 Q Did you have any jobs prior to that, 11:08:57AM</p> <p>18 outside of law enforcement?</p> <p>19 A Yes. 11:09:02AM</p> <p>20 Q What did you do just prior to starting 11:09:02AM</p> <p>21 the academy?</p> <p>22 A I worked in a delicatessen. 11:09:08AM</p> <p>23 Q Did you apply for a certain position 11:09:11AM</p> <p>24 at Ocean Beach?</p> <p>25 A I believe it was just seasonal police 11:09:23AM</p>
Page 78	Page 80
<p>1 GEORGE HESSE</p> <p>2 A No. 11:07:34AM</p> <p>3 Q Who did you interview with? 11:07:36AM</p> <p>4 A Bob Golopi. 11:07:39AM</p> <p>5 Q Anyone else? 11:07:42AM</p> <p>6 A I believe I met the chief, Ed 11:07:43AM</p> <p>7 Paradiso, for a little -- a little while, but --</p> <p>8 Q So at the time, Bop Golopi was a 11:07:50AM</p> <p>9 sergeant and Paradiso was the chief?</p> <p>10 A No, I think Bob was just a police 11:07:57AM</p> <p>11 officer at the time.</p> <p>12 Q What do you mean by just a police 11:07:59AM</p> <p>13 officer?</p> <p>14 A I don't think he was a sergeant at the 11:08:01AM</p> <p>15 time when I first met him.</p> <p>16 Q At some point, he was elevated to 11:08:06AM</p> <p>17 sergeant?</p> <p>18 A Yes. 11:08:09AM</p> <p>19 Q Did he have to go through any tests to 11:08:09AM</p> <p>20 be elevated to sergeant?</p> <p>21 MR. NOVIKOFF: Objection. 11:08:14AM</p> <p>22 A I don't know what he did at that time. 11:08:14AM</p> <p>23 Q Do you know whether it was a 11:08:18AM</p> <p>24 requirement to go through any tests at that time</p> <p>25 to be elevated to sergeant?</p>	<p>1 GEORGE HESSE</p> <p>2 officer.</p> <p>3 Q And were you hired for a seasonal 11:09:30AM</p> <p>4 police officer position?</p> <p>5 A Yes. 11:09:33AM</p> <p>6 Q What's your understanding of what a 11:09:35AM</p> <p>7 seasonal police officer is?</p> <p>8 A The classification of a seasonal 11:09:39AM</p> <p>9 police officer is a police officer that works</p> <p>10 between the time frame of two weeks prior to</p> <p>11 Memorial Day to two weeks after Labor Day.</p> <p>12 Q And that's the job that you had when 11:09:50AM</p> <p>13 you were first were hired there?</p> <p>14 A That's what I was told, yes. 11:09:54AM</p> <p>15 Q So you graduated the academy. Did you 11:09:55AM</p> <p>16 have to take any other tests before you were</p> <p>17 able to be certified as a police officer?</p> <p>18 A Just what the academy provided. 11:10:03AM</p> <p>19 Q And what were the tests in the 11:10:04AM</p> <p>20 academy?</p> <p>21 A At the time, I believe there was -- 11:10:08AM</p> <p>22 there's a battery of tests. You have a laws of</p> <p>23 arrest test. You had a search and seizure test.</p> <p>24 You have a deadly physical force test that you</p> <p>25 have to pass. Then I believe at the time we</p>

<p style="text-align: right;">Page 81</p> <p>1 GEORGE HESSE</p> <p>2 only had three comp tests that included just</p> <p>3 everything to do with anything from penal law to</p> <p>4 criminal procedure law, physical -- some</p> <p>5 physical training. Just had to pass a battery</p> <p>6 of tests.</p> <p>7 Q Did you have to pass any tests 11:10:40AM</p> <p>8 administered by Suffolk County Civil Service?</p> <p>9 A Prior to going to the academy, yes. 11:10:46AM</p> <p>10 Q What did you have to pass prior to 11:10:49AM</p> <p>11 going to the academy?</p> <p>12 A Physical agility, a medical and a 11:10:52AM</p> <p>13 psychological.</p> <p>14 Q Did you have to take a polygraph? 11:10:59AM</p> <p>15 A At that time, no, it wasn't a 11:11:01AM</p> <p>16 requirement.</p> <p>17 Q So which of those three tests did you 11:11:03AM</p> <p>18 take first, the agility, medical or</p> <p>19 psychological?</p> <p>20 A Oh, I don't recall. 11:11:09AM</p> <p>21 Q Did you pass the psychological? 11:11:11AM</p> <p>22 A Yes. 11:11:13AM</p> <p>23 Q First time you took it? 11:11:14AM</p> <p>24 A Yes. 11:11:15AM</p> <p>25 Q Did you pass the medical? 11:11:15AM</p>	<p style="text-align: right;">Page 83</p> <p>1 GEORGE HESSE</p> <p>2 BY MR. GOODSTADT: 11:12:03AM</p> <p>3 Q How about the medical test, do you 11:12:03AM</p> <p>4 know the reason why you have to take a medical</p> <p>5 test?</p> <p>6 MR. NOVIKOFF: Objection. 11:12:07AM</p> <p>7 A I guess they want to know if you're 11:12:07AM</p> <p>8 physically able to handle the physical training</p> <p>9 part of being a police officer. That I can</p> <p>10 understand.</p> <p>11 Q How about the psychological, do you 11:12:14AM</p> <p>12 know why you need to take a psychological test</p> <p>13 prior to going to the academy?</p> <p>14 MR. NOVIKOFF: Objection. 11:12:21AM</p> <p>15 MR. CONNOLLY: Objection. 11:12:21AM</p> <p>16 A Well, as a police officer, I'm sure 11:12:22AM</p> <p>17 you're going to see a lot of bad things. They</p> <p>18 want to make sure you can handle it, I guess.</p> <p>19 Q At the time, you didn't need a 11:12:29AM</p> <p>20 polygraph; is that correct?</p> <p>21 MR. NOVIKOFF: Objection. 11:12:29AM</p> <p>22 A That's correct. 11:12:30AM</p> <p>23 Q Did there come a point in time where a 11:12:29AM</p> <p>24 polygraph was a requirement to be certified as a</p> <p>25 police officer in Suffolk County?</p>
<p style="text-align: right;">Page 82</p> <p>1 GEORGE HESSE</p> <p>2 A Yes. 11:11:16AM</p> <p>3 Q First file you took it? 11:11:17AM</p> <p>4 A Yes. 11:11:18AM</p> <p>5 Q Did you pass the agility? 11:11:18AM</p> <p>6 A Yes. 11:11:20AM</p> <p>7 Q The first time you took it? 11:11:20AM</p> <p>8 A Yes. 11:11:22AM</p> <p>9 Q What's your understanding of the 11:11:33AM</p> <p>10 purpose of having to take an agility test?</p> <p>11 MR. NOVIKOFF: Objection. 11:11:40AM</p> <p>12 A Purpose? I don't understand the 11:11:41AM</p> <p>13 question.</p> <p>14 Q Who requires you to take a physical 11:11:45AM</p> <p>15 agility test prior to going to the academy?</p> <p>16 MR. NOVIKOFF: Objection. 11:11:50AM</p> <p>17 A I believe it's Civil Service. 11:11:50AM</p> <p>18 Q Do you understand why you have to take 11:11:52AM</p> <p>19 an agility test prior to going to the academy?</p> <p>20 MR. CONNOLLY: Objection. 11:11:58AM</p> <p>21 MR. NOVIKOFF: Objection. 11:11:58AM</p> <p>22 A No, I don't. 11:11:59AM</p> <p>23 Q Do you know the reason for it? 11:12:00AM</p> <p>24 A No. 11:12:01AM</p> <p>25 MR. NOVIKOFF: Objection. 11:12:03AM</p>	<p style="text-align: right;">Page 84</p> <p>1 GEORGE HESSE</p> <p>2 A I believe there was. 11:12:34AM</p> <p>3 MR. NOVIKOFF: Objection. 11:12:39AM</p> <p>4 MR. CALLAHAN: Objection. 11:12:43AM</p> <p>5 MR. CONNOLLY: Wait a second before 11:12:44AM</p> <p>6 you answer. This way, if anyone is going to</p> <p>7 object, we can get it on the record.</p> <p>8 BY MR. GOODSTADT: 11:13:11AM</p> <p>9 Q At the time that you went to the 11:13:11AM</p> <p>10 academy, there was no requirement from Suffolk</p> <p>11 County Civil Service to take a polygraph,</p> <p>12 correct?</p> <p>13 MR. NOVIKOFF: Objection. 11:13:19AM</p> <p>14 A Correct. 11:13:20AM</p> <p>15 Q Did there come a point in time where 11:13:22AM</p> <p>16 that requirement was put into place by Suffolk</p> <p>17 County Civil Service?</p> <p>18 MR. NOVIKOFF: Objection. 11:13:28AM</p> <p>19 A I believe so. 11:13:29AM</p> <p>20 Q Do you know when that happened? 11:13:30AM</p> <p>21 A No. 11:13:33AM</p> <p>22 Q Do you know approximately what year it 11:13:33AM</p> <p>23 was?</p> <p>24 A No. 11:13:35AM</p> <p>25 Q Do you know the reason why a potential 11:13:36AM</p>

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1 **GEORGE HESSE**
2 **police officer needs to take a polygraph to be**
3 **certified in Suffolk County?**
4 MR. CONNOLLY: Objection. 11:13:47AM
5 MR. NOVIKOFF: Objection. 11:13:48AM
6 A I don't know why. 11:13:49AM
7 **Q Do you know whether those tests are 11:13:50AM**
8 **required by Civil Service law?**
9 MR. NOVIKOFF: Objection. 11:13:54AM
10 A No. I don't know if they're required. 11:13:56AM
11 **Q You don't know one way or the other? 11:13:57AM**
12 A No. 11:14:00AM
13 **Q How about a background test, did you 11:14:01AM**
14 **have to go through a background check?**
15 A Yes. 11:14:05AM
16 **Q Is that a Civil Service requirement? 11:14:06AM**
17 MR. NOVIKOFF: Objection. 11:14:08AM
18 A You know, I don't know. 11:14:10AM
19 **Q How about now? Do you know if a 11:14:12AM**
20 **background check is required to be certified as**
21 **a police officer in Suffolk County?**
22 MR. NOVIKOFF: Objection. 11:14:21AM
23 MR. CALLAHAN: Objection. 11:14:22AM
24 A I don't know. 11:14:23AM
25 **Q Have you ever worked any other jobs 11:14:28AM**

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1 **GEORGE HESSE**
2 **during your employment at Ocean Beach?**
3 A Yes. 11:14:31AM
4 **Q What other jobs have you worked while 11:14:32AM**
5 **employed as an Ocean Beach police officer?**
6 A I worked part-time for the Town of 11:14:36AM
7 Islip with their harbor police unit.
8 **Q When did you do that? 11:14:44AM**
9 A I may have started there in '94 or '95 11:14:49AM
10 at some point, and then I took a leave of
11 absence for a little while from that job and
12 then I went back. I don't remember the exact
13 year I went back. I'd have to look at some
14 records or something.
15 **Q Did you have any other jobs other than 11:15:13AM**
16 **for the part-time Town of Islip Harbor Police**
17 **job while you were employed by Ocean Beach?**
18 A I worked with a local carpenter for a 11:15:21AM
19 little while in Ocean Beach.
20 **Q Who was that? 11:15:25AM**
21 A His name was Tommy or Thomas Nolter, 11:15:26AM
22 N-O-L-T-E-R.
23 **Q What years did you do that? 11:15:32AM**
24 A I believe it was '95 through '97. 11:15:35AM
25 **Q Did he pay you to do that? 11:15:41AM**

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1 **GEORGE HESSE**
2 A Yes. 11:15:43AM
3 **Q Did you pay taxes on that money? 11:15:44AM**
4 A No, I believe it was cash. 11:15:46AM
5 **Q I just want to -- just so I'm clear. 11:15:58AM**
6 **I know that it was cash, but did you declare it**
7 **on your tax returns that you made that cash?**
8 A No. 11:16:07AM
9 **Q How come? 11:16:07AM**
10 MR. CONNOLLY: Objection. 11:16:08AM
11 You can answer. 11:16:10AM
12 A I don't recall why I didn't, but I 11:16:14AM
13 didn't.
14 **Q Have you ever been disciplined in your 11:16:22AM**
15 **employment at Ocean Beach?**
16 MR. NOVIKOFF: Objection. 11:16:26AM
17 A No. 11:16:27AM
18 **Q Ever been suspended? 11:16:30AM**
19 A No. 11:16:32AM
20 **Q Do you know who F. Ethan Repp is? 11:16:33AM**
21 A Yes. 11:16:39AM
22 **Q Who is that? 11:16:39AM**
23 A He was, I think, a superintendent of 11:16:40AM
24 the village for a short period.
25 **Q Did you ever have any interaction with 11:17:13AM**

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1 **GEORGE HESSE**
2 **Mr. Repp?**
3 A Yes. 11:17:15AM
4 **Q And what interaction did you have with 11:17:16AM**
5 **Mr. Repp?**
6 A He was in charge of the village. 11:17:19AM
7 **Q Do you recall Mr. Repp asked you for a 11:17:21AM**
8 **set of keys to the barracks?**
9 A Yes, I do now. 11:17:27AM
10 **Q What do you mean, you do now? 11:17:31AM**
11 A I do remember having a slight incident 11:17:33AM
12 with him.
13 **Q And what was the slight incident you 11:17:36AM**
14 **had?**
15 A He wanted a key to the barracks, and I 11:17:38AM
16 refused to give him one.
17 **Q Why? 11:17:44AM**
18 A Because the chief wasn't there to 11:17:44AM
19 authorize me to give him a key.
20 **Q How many times did he request a key? 11:17:50AM**
21 A I don't recall. 11:17:52AM
22 **Q Do you know whether he wrote you up 11:17:56AM**
23 **for that?**
24 A Yes. 11:18:01AM
25 **Q He did write you up? 11:18:02AM**

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<p>1 GEORGE HESSE</p> <p>2 A Yes, he did. 11:18:03AM</p> <p>3 Q So you -- do you consider that 11:18:04AM</p> <p>4 discipline?</p> <p>5 A Yes. 11:18:07AM</p> <p>6 Q So going back to my question before, 11:18:08AM</p> <p>7 you actually have been disciplined, correct?</p> <p>8 A Yes. 11:18:13AM</p> <p>9 Q Any other incidents of discipline 11:18:13AM</p> <p>10 during your employment at Ocean Beach?</p> <p>11 A Not that I recall. 11:18:17AM</p> <p>12 MR. NOVIKOFF: Case is over. 11:18:25AM</p> <p>13 MR. GOODSTADT: What was that? 11:18:26AM</p> <p>14 MR. NOVIKOFF: I'm just talking to 11:18:28AM</p> <p>15 Mike.</p> <p>16 BY MR. GOODSTADT: 11:18:31AM</p> <p>17 Q You were hired for a seasonal police 11:18:33AM</p> <p>18 officer position, correct?</p> <p>19 MR. NOVIKOFF: Objection. 11:18:38AM</p> <p>20 A Originally, yes. 11:18:39AM</p> <p>21 Q So at any point in time, did that 11:18:40AM</p> <p>22 title change?</p> <p>23 A Yes. 11:18:45AM</p> <p>24 Q When did that title change for the 11:18:46AM</p> <p>25 first time?</p>	<p>1 GEORGE HESSE</p> <p>2 with your employment, when you first started</p> <p>3 working at Ocean Beach or just prior to it?</p> <p>4 A Paperwork? I believe there was some 11:20:08AM</p> <p>5 kind of questionnaire I had to fill out, an</p> <p>6 application.</p> <p>7 Q Are you aware of something called the 11:20:13AM</p> <p>8 Ocean Beach Police Department applicant</p> <p>9 investigation section?</p> <p>10 A Yeah, that would be me. 11:20:18AM</p> <p>11 Q What is that? 11:20:20AM</p> <p>12 A That was just some title that I gave 11:20:21AM</p> <p>13 myself because we had -- I was dealing with</p> <p>14 Suffolk County at that point to process new</p> <p>15 applicants that were coming in.</p> <p>16 Q When did you give yourself that title? 11:20:31AM</p> <p>17 A I don't know the date. 11:20:34AM</p> <p>18 Q Do you recall what year it was? 11:20:35AM</p> <p>19 A Maybe 2005. 11:20:40AM</p> <p>20 Q Was there an applicant investigation 11:20:44AM</p> <p>21 section in Ocean Beach prior to you giving</p> <p>22 yourself that title?</p> <p>23 A No. 11:20:50AM</p> <p>24 Q Did you have any training for that? 11:20:50AM</p> <p>25 A No. 11:20:53AM</p>
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<p>1 GEORGE HESSE</p> <p>2 A I believe it was November of '95. 11:18:48AM</p> <p>3 Q And what did your seasonal title 11:18:53AM</p> <p>4 change to in November of '95?</p> <p>5 A Full-time police officer. 11:18:56AM</p> <p>6 Q So how many seasons did you work as a 11:19:02AM</p> <p>7 seasonal police officer?</p> <p>8 A Two. 11:19:07AM</p> <p>9 Q Did you work the off season during 11:19:07AM</p> <p>10 those two years?</p> <p>11 A Yes. 11:19:10AM</p> <p>12 Q So were you a part-time police officer 11:19:11AM</p> <p>13 at any point between the seasonal position when</p> <p>14 you were first hired and the change to full-time</p> <p>15 in '95?</p> <p>16 MR. NOVIKOFF: Objection to form. 11:19:19AM</p> <p>17 A Yes. 11:19:20AM</p> <p>18 Q What did it change to, part-time? 11:19:21AM</p> <p>19 A At that time, I didn't know. I just 11:19:25AM</p> <p>20 continued service.</p> <p>21 Q Was there a lieutenant for the 11:19:37AM</p> <p>22 department at all during your employment there?</p> <p>23 A No. 11:19:43AM</p> <p>24 Q What paperwork did you fill out when 11:19:54AM</p> <p>25 you first started working there in connection</p>	<p>1 GEORGE HESSE</p> <p>2 Q Is that -- was that a Civil Service 11:20:55AM</p> <p>3 title?</p> <p>4 A No. 11:20:58AM</p> <p>5 Q Did you ever alert anybody that you 11:20:59AM</p> <p>6 gave yourself that title?</p> <p>7 A No. 11:21:03AM</p> <p>8 Q Did you -- did the Board of Trustees 11:21:06AM</p> <p>9 in Ocean Beach pass any resolution awarding that</p> <p>10 title?</p> <p>11 A No. 11:21:12AM</p> <p>12 MR. NOVIKOFF: Objection. 11:21:13AM</p> <p>13 BY MR. GOODSTADT: 11:21:13AM</p> <p>14 Q Why did you give yourself that title? 11:21:17AM</p> <p>15 A Because I was the new applicant 11:21:19AM</p> <p>16 investigation unit for the Ocean Beach Police</p> <p>17 Department.</p> <p>18 Q Well, who did the new applicant 11:21:24AM</p> <p>19 investigations prior to you awarding yourself</p> <p>20 that title?</p> <p>21 A Suffolk County PD. 11:21:30AM</p> <p>22 Q Did you alert the Suffolk County PD 11:21:32AM</p> <p>23 that you now awarded yourself that title?</p> <p>24 A No. 11:21:37AM</p> <p>25 Q What were you investigating as the 11:21:39AM</p>

<p style="text-align: right;">Page 93</p> <p>1 GEORGE HESSE</p> <p>2 Ocean Beach Police Department applicant</p> <p>3 investigation section?</p> <p>4 A Just new police officers. 11:21:47AM</p> <p>5 Q What did you do to investigate? 11:21:49AM</p> <p>6 A I had them fill out a questionnaire. 11:21:52AM</p> <p>7 It required a ton of documentation. I reviewed</p> <p>8 the documents. I sent out letters to previous</p> <p>9 employers that they had for responses to see</p> <p>10 what their work -- you know, if they were in</p> <p>11 good standing with their previous jobs. I had</p> <p>12 to send out a mental health release form to the</p> <p>13 New York State Department of Health Services to</p> <p>14 see if they had any previous mental health</p> <p>15 issues that would stop them from becoming a</p> <p>16 police officer. I'm sure there's a lot of other</p> <p>17 assorted things, but I don't have an application</p> <p>18 in front of me to go through.</p> <p>19 Q Where did you get the questionnaire 11:22:38AM</p> <p>20 that you distributed to new applicants?</p> <p>21 A Some of it was from Suffolk County PD 11:22:43AM</p> <p>22 and their applicant investigation unit. They</p> <p>23 sent me a copy. I went online. I found other</p> <p>24 applications from other police departments that</p> <p>25 I thought would help out in having people fill</p>	<p style="text-align: right;">Page 95</p> <p>1 GEORGE HESSE</p> <p>2 A No. 11:23:50AM</p> <p>3 Q Including full-time, part-time, 11:23:54AM</p> <p>4 seasonal guys who had already been employed?</p> <p>5 A There was only one that had to redo 11:24:00AM</p> <p>6 his application.</p> <p>7 Q Who was that? 11:24:04AM</p> <p>8 A Ty Bacon. 11:24:05AM</p> <p>9 Q Why did he have to redo the 11:24:05AM</p> <p>10 application?</p> <p>11 A Because I believe Civil Service had 11:24:08AM</p> <p>12 made a mistake with his certification to be a</p> <p>13 police officer in Suffolk County, and they</p> <p>14 required that he had to take the battery of</p> <p>15 tests that are required before employment.</p> <p>16 Q Did Gary Bosetti have to fill it out? 11:24:27AM</p> <p>17 A Yes. 11:24:29AM</p> <p>18 Q How come? 11:24:30AM</p> <p>19 A Technically, he was a new hire, and he 11:24:31AM</p> <p>20 had to take the polygraph. The polygraph is</p> <p>21 based on the application.</p> <p>22 Q What do you mean by technically he was 11:24:40AM</p> <p>23 a new hire?</p> <p>24 A Because he was hired by the village, 11:24:42AM</p> <p>25 and apparently there was some sort of confusion</p>
<p style="text-align: right;">Page 94</p> <p>1 GEORGE HESSE</p> <p>2 out these applications.</p> <p>3 Q Did anyone from the county approve the 11:22:59AM</p> <p>4 packet that you put together?</p> <p>5 A No. 11:23:03AM</p> <p>6 Q Did you create the questionnaire 11:23:03AM</p> <p>7 packet?</p> <p>8 A Yes. 11:23:06AM</p> <p>9 Q Was it only distributed to new 11:23:08AM</p> <p>10 applicants?</p> <p>11 A Yes. 11:23:12AM</p> <p>12 Q Did you do a criminal background 11:23:20AM</p> <p>13 check?</p> <p>14 A Yes. 11:23:22AM</p> <p>15 Q Anything else other than what you 11:23:24AM</p> <p>16 testified to and now the criminal background</p> <p>17 check that you did to investigate new</p> <p>18 applicants?</p> <p>19 A I don't know. 11:23:32AM</p> <p>20 Q Did people who previously worked at 11:23:40AM</p> <p>21 Ocean Beach have to go through the applicant</p> <p>22 investigation section?</p> <p>23 A Current -- officers that were 11:23:47AM</p> <p>24 currently employed?</p> <p>25 Q Yes. 11:23:50AM</p>	<p style="text-align: right;">Page 96</p> <p>1 GEORGE HESSE</p> <p>2 with his status to become a police officer</p> <p>3 within Suffolk County; and in order to get</p> <p>4 through Suffolk County Civil Service's battery</p> <p>5 of tests, he had to fill out this application.</p> <p>6 Q Do you know when that was? 11:25:01AM</p> <p>7 A It might have been 2005. 11:25:02AM</p> <p>8 Q But he had worked there prior to 2005, 11:25:03AM</p> <p>9 right?</p> <p>10 A Yes. 11:25:06AM</p> <p>11 Q So he had worked there prior to 11:25:06AM</p> <p>12 passing the battery of tests?</p> <p>13 A Yes. 11:25:10AM</p> <p>14 Q Anyone else fit that same category of 11:25:10AM</p> <p>15 people who had worked there prior but still</p> <p>16 needed to fill out your applicant investigation</p> <p>17 section report?</p> <p>18 A Yes. 11:25:19AM</p> <p>19 Q Who else what was that? 11:25:19AM</p> <p>20 A I believe there was Rich Bosetti, 11:25:21AM</p> <p>21 Tommy Shaw. I already mentioned Ty Bacon. Who</p> <p>22 else at that time? There was someone that --</p> <p>23 oh, John Dyer. What was his name? There was a</p> <p>24 gentleman that retired from New York City PD as</p> <p>25 a lieutenant. I can't think of his name. Maybe</p>

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1 GEORGE HESSE

2 there was Pat Cherry also, but he chose not to

3 resume as a police officer with Ocean Beach.

4 **Q Pat Cherry, Sr.? 11:26:09AM**

5 A Correct. 11:26:11AM

6 **Q There was one other you said? 11:26:11AM**

7 A Yeah. I can't think of his name. 11:26:13AM

8 **Q Is there anything that would help 11:26:14AM**

9 **refresh your recollection?**

10 A I'm sure you have a list of every 11:26:18AM

11 police officer that worked in Ocean Beach. If

12 you give me the list, I'm sure I can find it.

13 **Q We'll give you the list in a bit. 11:26:26AM**

14 A Excuse me. 11:26:28AM

15 **Q Does a police officer have to graduate 11:26:34AM**

16 **the academy prior to being certified to be a**

17 **police officer?**

18 MR. NOVIKOFF: Objection. 11:26:40AM

19 A To my recollection, there are some 11:26:43AM

20 technicalities with that.

21 **Q What are the technicalities? 11:26:47AM**

22 A I believe you could be hired as a 11:26:48AM

23 police officer, but within that calendar year at

24 some point you have to graduate a police

25 academy.

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1 GEORGE HESSE

2 **Q Okay. Any other technicalities? 11:26:57AM**

3 A Not that I'm aware of. 11:26:59AM

4 **Q Does it have to be the Suffolk County 11:27:00AM**

5 **police academy?**

6 A No. 11:27:03AM

7 **Q So it can be New York City police 11:27:03AM**

8 **academy?**

9 A Correct. 11:27:06AM

10 **Q It could be Nassau County police 11:27:07AM**

11 **academy?**

12 A Correct. 11:27:11AM

13 **Q Are there different radio codes in New 11:27:11AM**

14 **York City than Suffolk County?**

15 MR. CONNOLLY: What time frame? 11:27:17AM

16 MR. GOODSTADT: Any point in time. 11:27:18AM

17 A Yes. 11:27:19AM

18 **Q So why don't we focus on 2002 to 2006. 11:27:19AM**

19 **Were there different radio codes?**

20 A I believe so. 11:27:23AM

21 **Q Do the officers in Ocean Beach need to 11:27:25AM**

22 **know the Suffolk County radio codes?**

23 A They should be aware of them, yes. 11:27:29AM

24 **Q It's important that they're aware of 11:27:31AM**

25 **them?**

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1 GEORGE HESSE

2 A Yeah, to a point. 11:27:33AM

3 **Q Do you think it's important to the 11:27:35AM**

4 **public safety that the police officers are aware**

5 **of the radio codes?**

6 MR. NOVIKOFF: Objection to the form. 11:27:40AM

7 I don't know what you mean by public safety.

8 Are you using it in the context of a 740

9 claim or just a general definition?

10 MR. GOODSTADT: Both. 11:27:49AM

11 MR. NOVIKOFF: Objection to form. 11:27:50AM

12 A Repeat the question. 11:27:51AM

13 MR. NOVIKOFF: Calls for a legal 11:27:53AM

14 conclusion as well.

15 BY MR. GOODSTADT: 11:27:55AM

16 **Q Do you think it's important to the 11:27:55AM**

17 **public's safety that police officers in Ocean**

18 **Beach know the radio codes?**

19 MR. NOVIKOFF: Note my objection. 11:28:01AM

20 A I think they should be familiarized 11:28:02AM

21 with them, yes.

22 **Q Do you think it's important to public 11:28:05AM**

23 **safety?**

24 MR. NOVIKOFF: Note my objection. 11:28:06AM

25 A It's not detrimental, no. 11:28:07AM

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1 GEORGE HESSE

2 **Q It's not detrimental to public safety 11:28:09AM**

3 **for police officers --**

4 A No. 11:28:13AM

5 **Q You don't think it's detrimental to 11:28:13AM**

6 **the public's safety if police officers don't**

7 **know the radio codes that are being addressed to**

8 **them?**

9 MR. NOVIKOFF: Objection to the form 11:28:22AM

10 of the question.

11 BY MR. GOODSTADT: 11:28:23AM

12 **Q Is that your testimony? 11:28:24AM**

13 A There's more to it, but yeah. 11:28:25AM

14 **Q What do you mean there's more to it? 11:28:27AM**

15 A Because since 2001, FEMA has 11:28:29AM

16 established the plain-talk doctrine since 2001.

17 You say the 10 code or any code, and then you

18 say what the actual call is.

19 **Q And that's in place in Ocean Beach? 11:28:46AM**

20 A That's in place, correct. 11:28:48AM

21 **Q What's the sense of having a radio 11:28:55AM**

22 **code if you're doing the public talk now?**

23 MR. NOVIKOFF: Objection to the form 11:28:59AM

24 of the question.

25 MR. CONNOLLY: Objection. You can 11:29:02AM

<p style="text-align: right;">Page 101</p> <p>1 GEORGE HESSE</p> <p>2 answer.</p> <p>3 A Repeat that. 11:29:05AM</p> <p>4 Q Yeah. Why would you need a radio code 11:29:06AM</p> <p>5 if you have a public-talk doctrine?</p> <p>6 MR. NOVIKOFF: Objection to the form. 11:29:13AM</p> <p>7 A To tell you the truth, at this point I 11:29:14AM</p> <p>8 don't know why.</p> <p>9 Q At any point in time, did you know 11:29:17AM</p> <p>10 why?</p> <p>11 MR. NOVIKOFF: Objection to form. 11:29:20AM</p> <p>12 A I have an opinion. 11:29:21AM</p> <p>13 Q What's your opinion? 11:29:22AM</p> <p>14 A My opinion was it's to shorten 11:29:23AM</p> <p>15 communications on the radio.</p> <p>16 Q I'm saying if you have -- why would 11:29:26AM</p> <p>17 you still need radio codes since 2001 if you're</p> <p>18 required to also say public talk?</p> <p>19 MR. NOVIKOFF: Objection as to form. 11:29:37AM</p> <p>20 Foundation.</p> <p>21 MR. CONNOLLY: Objection. 11:29:39AM</p> <p>22 A I don't know. 11:29:40AM</p> <p>23 MR. GOODSTADT: And when I say "public 11:29:42AM</p> <p>24 talk," I mean plain talk. I don't know if</p> <p>25 that's the basis of the objection. That's</p>	<p style="text-align: right;">Page 103</p> <p>1 GEORGE HESSE</p> <p>2 A Everybody knows what a 10/1 is on this 11:30:34AM</p> <p>3 job.</p> <p>4 Q Isn't it true that Arnold Hardman 11:30:38AM</p> <p>5 failed to respond to a 10/1 by Nofi?</p> <p>6 MR. NOVIKOFF: Objection. Leading. 11:30:46AM</p> <p>7 Foundation. Form.</p> <p>8 A No. 11:30:50AM</p> <p>9 Q It's not true? 11:30:51AM</p> <p>10 A I don't believe so. 11:30:53AM</p> <p>11 Q Nofi never complained to you that 11:30:57AM</p> <p>12 Hardman didn't know what the code was, he</p> <p>13 thought it was a threat to him?</p> <p>14 MR. NOVIKOFF: Objection. Leading. 11:31:05AM</p> <p>15 Form.</p> <p>16 A No. 11:31:06AM</p> <p>17 Q Since 2001 in Ocean Beach, do all 11:31:12AM</p> <p>18 radio codes that have been sent out over the</p> <p>19 radio include the code and then the plain talk?</p> <p>20 MR. NOVIKOFF: Objection. Form. 11:31:21AM</p> <p>21 Foundation.</p> <p>22 A Repeat the question, please. 11:31:23AM</p> <p>23 Q Yeah. Since 2001, when FEMA put in 11:31:25AM</p> <p>24 their plain talk doctrine, do all radio codes</p> <p>25 that are sent to the Ocean Beach police officers</p>
<p style="text-align: right;">Page 102</p> <p>1 GEORGE HESSE</p> <p>2 what I mean.</p> <p>3 BY MR. GOODSTADT: 11:29:49AM</p> <p>4 Q I'm assuming you know understood what 11:29:49AM</p> <p>5 I meant, correct?</p> <p>6 MR. CONNOLLY: Why don't we repeat the 11:29:52AM</p> <p>7 question using plain talk.</p> <p>8 A I don't recall. 11:29:56AM</p> <p>9 Q Since 2001, there's a plain talk 11:29:57AM</p> <p>10 doctrine, correct?</p> <p>11 A Yes. 11:30:01AM</p> <p>12 Q So when a radio code is sent over the 11:30:01AM</p> <p>13 radio, they say, you know, 10/1 officer in need</p> <p>14 of -- you know, officer's life in danger. Is</p> <p>15 that what they say, something like that?</p> <p>16 MR. NOVIKOFF: Objection. 11:30:14AM</p> <p>17 BY MR. GOODSTADT: 11:30:15AM</p> <p>18 Q Is that what you mean by public talk? 11:30:16AM</p> <p>19 MR. NOVIKOFF: Objection. 11:30:19AM</p> <p>20 A I think everybody knows what a 10/1 11:30:19AM</p> <p>21 is. I don't care where you come from. But you</p> <p>22 could tell from somebody's tone of voice on the</p> <p>23 radio that they need assistance.</p> <p>24 Q What do you mean by everyone knows 11:30:31AM</p> <p>25 what a 10/1 is?</p>	<p style="text-align: right;">Page 104</p> <p>1 GEORGE HESSE</p> <p>2 over the radio include both the code and the</p> <p>3 plain talk?</p> <p>4 A Yes. 11:31:37AM</p> <p>5 MR. NOVIKOFF: Objection. Is the 11:31:38AM</p> <p>6 question is that a requirement or does he</p> <p>7 know if every single one that has been</p> <p>8 transmitted even outside his presence had</p> <p>9 that?</p> <p>10 BY MR. GOODSTADT: 11:31:46AM</p> <p>11 Q Well, have you ever heard one that was 11:31:47AM</p> <p>12 transmitted without the plain talk?</p> <p>13 A No. 11:31:51AM</p> <p>14 Q Just going back. You don't recall 11:31:55AM</p> <p>15 Nofi complaining to you that Hardman didn't</p> <p>16 respond to his 10/1?</p> <p>17 MR. CONNOLLY: Objection. 11:32:02AM</p> <p>18 A No. 11:32:02AM</p> <p>19 MR. NOVIKOFF: Just note my objection 11:32:08AM</p> <p>20 to that last question.</p> <p>21 BY MR. GOODSTADT: 11:32:22AM</p> <p>22 Q We discussed before that there was a 11:32:23AM</p> <p>23 battery of tests that you have to pass before</p> <p>24 going to the police academy to be certified as a</p> <p>25 police officer.</p>

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1 **GEORGE HESSE**

2 **Who in Ocean Beach since 2000 has been 11:32:30AM**

3 **charged with ensuring that the officers who are**

4 **hired have actually passed those tests?**

5 MR. NOVIKOFF: Objection. Foundation. 11:32:39AM

6 Form.

7 MR. CONNOLLY: Time frame. 11:32:43AM

8 A Since 2000? 11:32:45AM

9 **Q Since 2000, that's the time frame. 11:32:45AM**

10 A Since 2000 till the present? 11:32:48AM

11 **Q Yes. 11:32:50AM**

12 A From 2000 through 2006 would be Ed 11:32:51AM

13 Paradiso. From 2006 till present would be me.

14 MR. GOODSTADT: Okay, we can -- 11:32:59AM

15 THE VIDEOGRAPHER: That the is end of 11:33:01AM

16 Tape Number 1.

17 The time is now 11:33 a.m. We are now 11:33:03AM

18 off the record.

19 (Whereupon, a discussion was held off 11:33:07AM

20 the record.)

21 THE VIDEOGRAPHER: This is the start 11:49:25AM

22 of Tape Number 2.

23 The time is now 11:49 a.m. We are now 11:49:27AM

24 back on the record.

25

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1 **GEORGE HESSE**

2 BY MR. GOODSTADT: 11:49:31AM

3 **Q Sir, before we went off the record, 11:49:31AM**

4 **I'd asked you a question about jobs that you had**

5 **while you were employed by Ocean Beach, and you**

6 **told me about a harbor job and you told me about**

7 **a job with a carpenter, correct?**

8 A Yes. 11:49:46AM

9 **Q Did you also work for Ian Levine at 11:49:47AM**

10 **Sky Cable?**

11 A Yes. 11:49:51AM

12 **Q And when did you work for Ian Levine 11:49:51AM**

13 **at Sky Cable?**

14 A I believe I worked for him from -- I'm 11:50:00AM

15 really going to be guessing, but maybe '97

16 through a little bit of 2000. I'm not real sure

17 exactly what the dates are.

18 **Q And did he pay you for that work? 11:50:18AM**

19 A Yes. 11:50:19AM

20 **Q Did you pay taxes on the pay that you 11:50:20AM**

21 **received from Mr. Levine?**

22 A No. 11:50:24AM

23 **Q So he paid you cash as well? 11:50:24AM**

24 A Yes. 11:50:26AM

25 **Q And you didn't declare that on your 11:50:26AM**

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1 **GEORGE HESSE**

2 **income tax returns?**

3 A No. 11:50:29AM

4 **Q How come? 11:50:30AM**

5 A Just didn't. 11:50:32AM

6 MR. NOVIKOFF: Objection. 11:50:35AM

7 BY MR. GOODSTADT: 11:50:36AM

8 **Q So other than for the Sky Cable job, 11:50:39AM**

9 **the carpenter job and the harbor job, did you**

10 **have any other jobs while you were employed by**

11 **Ocean Beach?**

12 A In the beginning, I worked for the 11:50:48AM

13 deli, I guess from '93 to -- from '93 to

14 somewhere in '95 maybe.

15 **Q That same deli you had worked at 11:50:59AM**

16 **beforehand?**

17 A I worked at a couple of different 11:51:02AM

18 delis, yes.

19 **Q Is Ian Levine a resident of Ocean 11:51:10AM**

20 **Beach?**

21 MR. NOVIKOFF: Objection. Form. 11:51:13AM

22 Foundation.

23 A Yes. 11:51:15AM

24 **Q Where is his home or property? 11:51:16AM**

25 A I'm trying to think of the exact 11:51:23AM

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1 **GEORGE HESSE**

2 address. He owns a home with his wife on Ocean

3 Breeze. I don't know the exact address.

4 **Q Have you ever been to his home? 11:51:33AM**

5 A Yes. 11:51:35AM

6 **Q Does he live there full time in Ocean 11:51:36AM**

7 **Beach?**

8 A He does, yes. 11:51:39AM

9 **Q How many times have you been to his 11:51:40AM**

10 **house?**

11 A Numerous times. 11:51:45AM

12 **Q Ever been there on non-police 11:51:47AM**

13 **business?**

14 A Yes. 11:51:50AM

15 **Q Social visits? 11:51:51AM**

16 A Once or twice, yes. 11:51:52AM

17 **Q Are you friends with Ian Levine? 11:51:54AM**

18 A We're acquaintances. 11:51:58AM

19 **Q Now, you testified before about your 11:52:01AM**

20 **harbor job. Who did you report to in your**

21 **harbor job?**

22 A Al Loeffler. He was the chief. 11:52:06AM

23 **Q He was the chief. What was the title 11:52:09AM**

24 **there?**

25 MR. NOVIKOFF: His title or 11:52:12AM

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<p>1 GEORGE HESSE</p> <p>2 Mr. Loeffler's?</p> <p>3 BY MR. GOODSTADT: 11:52:15AM</p> <p>4 Q What was Mr. Loeffler's title there? 11:52:15AM</p> <p>5 A He was chief, but his exact Civil 11:52:18AM</p> <p>6 Service title, I don't know.</p> <p>7 Q But you called him chief? 11:52:21AM</p> <p>8 A I called him chief on occasion, yes. 11:52:23AM</p> <p>9 Q You reported to him at that job? 11:52:29AM</p> <p>10 A Yes. 11:52:32AM</p> <p>11 Q Did he work as a police officer on 11:52:32AM</p> <p>12 Ocean Beach at any time?</p> <p>13 A Yes. 11:52:36AM</p> <p>14 Q When did he work as an officer on 11:52:37AM</p> <p>15 Ocean Beach?</p> <p>16 A From 1973 till maybe 2002 or '3 or '4. 11:52:40AM</p> <p>17 I don't know.</p> <p>18 Q Did he report to you in his job as a 11:52:54AM</p> <p>19 police officer in Ocean Beach?</p> <p>20 A At some point, yes. 11:52:59AM</p> <p>21 Q At the same time you had the harbor 11:53:01AM</p> <p>22 job and you were reporting to him, was he also</p> <p>23 reporting to you in the beach job?</p> <p>24 A There was a time, yes. 11:53:09AM</p> <p>25 Q Is he related to Mayor Joe Loeffler at 11:53:10AM</p>	<p>1 GEORGE HESSE</p> <p>2 police force?</p> <p>3 A He may have stayed on for a short 11:54:28AM</p> <p>4 period after he left the town job. I really</p> <p>5 don't know.</p> <p>6 Q Who is Bob Scroi? Is that the name 11:54:39AM</p> <p>7 you used?</p> <p>8 A Uh-huh. 11:54:44AM</p> <p>9 Q Who is he? 11:54:44AM</p> <p>10 A He's the chief of the Islip harbor 11:54:44AM</p> <p>11 police now.</p> <p>12 Q And he told you that you were 11:54:47AM</p> <p>13 suspended when you got indicted?</p> <p>14 A Yes. 11:54:51AM</p> <p>15 Q Are you still currently suspended? 11:54:51AM</p> <p>16 A Yes. 11:54:53AM</p> <p>17 Q Have you applied to get the job back 11:54:54AM</p> <p>18 there at the harbor?</p> <p>19 A We've spoken about it, yes. 11:54:58AM</p> <p>20 Q You spoke to who about it? 11:55:01AM</p> <p>21 A Bob Scroi. 11:55:03AM</p> <p>22 Q What was the substance of the 11:55:04AM</p> <p>23 conversation?</p> <p>24 A He is -- he said he was looking into 11:55:06AM</p> <p>25 it. I believe public safety just got a new</p>
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<p>1 GEORGE HESSE</p> <p>2 all?</p> <p>3 A Yes. 11:53:14AM</p> <p>4 Q What's the relationship? 11:53:15AM</p> <p>5 A Brothers. 11:53:17AM</p> <p>6 Q And how long did you work the harbor 11:53:24AM</p> <p>7 job? When did you stop working there?</p> <p>8 A I believe I started somewhere around 11:53:28AM</p> <p>9 the end of '94, maybe somewhere in '95. I</p> <p>10 worked maybe two, three years, at the most.</p> <p>11 Then I took a leave for some time, and then I</p> <p>12 went back maybe 2002. I'm not real sure.</p> <p>13 Q 2002 until when? 11:53:52AM</p> <p>14 A Until I got indicted. 11:53:53AM</p> <p>15 Q And what happened when you got 11:54:00AM</p> <p>16 indicted?</p> <p>17 A March 27th, I got a phone call from 11:54:03AM</p> <p>18 Bob Scroi, and I was told I was suspended.</p> <p>19 Q Who is Bob Scroi? 11:54:10AM</p> <p>20 A He is now the current chief of the 11:54:12AM</p> <p>21 Islip harbor police.</p> <p>22 Q When did Allen Loeffler stop being the 11:54:16AM</p> <p>23 chief?</p> <p>24 A It's possible 2005. 11:54:20AM</p> <p>25 Q After he had left the Ocean Beach 11:54:24AM</p>	<p>1 GEORGE HESSE</p> <p>2 commissioner; and I met the commissioner, and we</p> <p>3 just talked about possibly coming back. Nothing</p> <p>4 solid, but we talked about possibly coming back</p> <p>5 to work.</p> <p>6 Q Has a decision been made one way or 11:55:23AM</p> <p>7 the other?</p> <p>8 MR. NOVIKOFF: Objection. 11:55:28AM</p> <p>9 A Not that I'm aware of. 11:55:29AM</p> <p>10 Q Did you fill out any paperwork to get 11:55:30AM</p> <p>11 the job back?</p> <p>12 A No. 11:55:33AM</p> <p>13 Q I just want to go back to the FEMA 11:55:34AM</p> <p>14 doctrine, because I was a little bit confused as</p> <p>15 to what it was. The FEMA doctrine, the plain --</p> <p>16 what is it, the plain talk?</p> <p>17 A It's the plain-talk doctrine. 11:55:43AM</p> <p>18 Q The plain-talk doctrine? 11:55:45AM</p> <p>19 A Uh-huh. 11:55:48AM</p> <p>20 Q Is that -- the plain-talk doctrine, 11:55:48AM</p> <p>21 does that apply to interagency transmissions or</p> <p>22 is that also within an agency that the</p> <p>23 plain-talk doctrine applies to?</p> <p>24 MR. NOVIKOFF: Objection to form. 11:56:00AM</p> <p>25 A It's my understanding it applies to 11:56:00AM</p>

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<p>1 GEORGE HESSE</p> <p>2 all jobs now.</p> <p>3 Q And when did it apply to all jobs? 11:56:03AM</p> <p>4 When did that start?</p> <p>5 MR. NOVIKOFF: Objection to form. 11:56:07AM</p> <p>6 A I don't know the exact date. 11:56:08AM</p> <p>7 Q Had it always applied to all jobs? 11:56:10AM</p> <p>8 MR. NOVIKOFF: Objection. 11:56:13AM</p> <p>9 A Not that I'm aware of. 11:56:14AM</p> <p>10 Q Well, I guess I'm trying to just get a 11:56:18AM</p> <p>11 timeline.</p> <p>12 It was put in sometime after 11:56:21AM</p> <p>13 September 11th, correct?</p> <p>14 A Correct. 11:56:25AM</p> <p>15 Q 2001? 11:56:26AM</p> <p>16 A Correct. 11:56:26AM</p> <p>17 Q Then when it was first put in, did it 11:56:27AM</p> <p>18 apply to all jobs or did it originally just</p> <p>19 apply interagency?</p> <p>20 A I don't know. 11:56:36AM</p> <p>21 Q And when Suffolk County would relay a 11:56:39AM</p> <p>22 code over the radio since 2001 to Ocean Beach</p> <p>23 radios, they gave the code and plain talk or</p> <p>24 just the code?</p> <p>25 MR. NOVIKOFF: Objection. Form. 11:56:53AM</p>	<p>1 GEORGE HESSE</p> <p>2 Q What do you mean by "pretty much"? 11:57:40AM</p> <p>3 A It's pretty much been that way for a 11:57:42AM</p> <p>4 long time for Ocean Beach.</p> <p>5 Q How long is a long time? 11:57:45AM</p> <p>6 A It could be from the beginning of when 11:57:49AM</p> <p>7 I started working there.</p> <p>8 Q Okay. Have you ever transmitted a 10 11:57:53AM</p> <p>9 code without plain talk?</p> <p>10 A Yeah. Sure. 11:58:00AM</p> <p>11 Q Since 2001? 11:58:01AM</p> <p>12 A Sure. 11:58:02AM</p> <p>13 Q Were you in violation of the FEMA 11:58:05AM</p> <p>14 doctrine?</p> <p>15 A I may have been. 11:58:07AM</p> <p>16 Q But you don't know one way or of the 11:58:09AM</p> <p>17 other?</p> <p>18 A No. 11:58:11AM</p> <p>19 Q And before, I think you defined what a 11:58:13AM</p> <p>20 seasonal police officer was in Suffolk County.</p> <p>21 Could you define what a part-time police officer</p> <p>22 is in Suffolk County?</p> <p>23 MR. CALLAHAN: Objection to form. 11:58:24AM</p> <p>24 MR. NOVIKOFF: Objection. 11:58:26AM</p> <p>25 MR. CONNOLLY: Objection. 11:58:26AM</p>
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<p>1 GEORGE HESSE</p> <p>2 Foundation.</p> <p>3 A They do now. 11:56:59AM</p> <p>4 Q When did that start? 11:57:00AM</p> <p>5 MR. NOVIKOFF: Objection. 11:57:02AM</p> <p>6 A I don't recall. 11:57:03AM</p> <p>7 Q Was it within the last year? 11:57:04AM</p> <p>8 MR. NOVIKOFF: Objection. 11:57:06AM</p> <p>9 A I don't recall. 11:57:09AM</p> <p>10 Q How about in '02, did they do it in 11:57:09AM</p> <p>11 '02?</p> <p>12 MR. NOVIKOFF: Objection. 11:57:13AM</p> <p>13 A I don't know. 11:57:13AM</p> <p>14 Q '03? 11:57:14AM</p> <p>15 MR. NOVIKOFF: Objection. 11:57:15AM</p> <p>16 A I don't know. 11:57:16AM</p> <p>17 Q '04? 11:57:16AM</p> <p>18 MR. NOVIKOFF: Objection. 11:57:18AM</p> <p>19 A I don't know. 11:57:18AM</p> <p>20 Q When you sent a code over the radio in 11:57:19AM</p> <p>21 '02, did you do the radio code and the plain</p> <p>22 talk or just the radio code?</p> <p>23 A As far back as I can remember in Ocean 11:57:30AM</p> <p>24 Beach, we've always put a 10 code over and</p> <p>25 pretty much said what it was afterwards, so --</p>	<p>1 GEORGE HESSE</p> <p>2 A Can I answer? 11:58:29AM</p> <p>3 MR. CONNOLLY: Yes. 11:58:30AM</p> <p>4 A Part-time status, it could be year 11:58:33AM</p> <p>5 round. It could be -- you know, this is not my</p> <p>6 definition, but it's the definition, I believe,</p> <p>7 that Civil Service puts out. It's my</p> <p>8 understanding that a part-time police officer</p> <p>9 does not work more than 20 hours a week. It</p> <p>10 could be year round or it could be from two</p> <p>11 weeks after Labor Day to two weeks prior to</p> <p>12 Memorial Day.</p> <p>13 Q Can a seasonal officer work after the 11:58:59AM</p> <p>14 period two weeks after Labor Day through the</p> <p>15 period of two weeks before Memorial Day, meaning</p> <p>16 in the off season?</p> <p>17 A No. 11:59:09AM</p> <p>18 MR. NOVIKOFF: Objection to the form 11:59:10AM</p> <p>19 of that question.</p> <p>20 BY MR. GOODSTADT: 11:59:12AM</p> <p>21 Q So was Ed Carter a part-time officer 11:59:12AM</p> <p>22 or a seasonal officer?</p> <p>23 MR. CONNOLLY: When? 11:59:16AM</p> <p>24 MR. GOODSTADT: At any point in time 11:59:17AM</p> <p>25 during his employment.</p>

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<p>1 GEORGE HESSE</p> <p>2 MR. NOVIKOFF: Objection. 11:59:21AM</p> <p>3 A I don't know. 11:59:21AM</p> <p>4 Q Well, did Ed ever work on the off 11:59:23AM</p> <p>5 season --</p> <p>6 A Sure. 11:59:27AM</p> <p>7 Q -- based on the definition we had? 11:59:27AM</p> <p>8 So he couldn't have been a seasonal 11:59:29AM</p> <p>9 officer, according to your definition and</p> <p>10 understanding, correct? So the fact that he</p> <p>11 worked -- the fact that he worked during the off</p> <p>12 season based on the definition that you've given</p> <p>13 us, he couldn't have been a seasonal officer,</p> <p>14 correct? He had to have been part-time?</p> <p>15 MR. NOVIKOFF: Objection to form. 11:59:49AM</p> <p>16 A His title is not controlled by me, so 11:59:49AM</p> <p>17 I don't know what his title was.</p> <p>18 Q Well, his title is controlled by what? 11:59:54AM</p> <p>19 MR. NOVIKOFF: Objection to form. 11:59:57AM</p> <p>20 Calls for a legal conclusion.</p> <p>21 BY MR. GOODSTADT: 12:00:01PM</p> <p>22 Q What's your understanding of what his 12:00:01PM</p> <p>23 title is controlled by?</p> <p>24 MR. NOVIKOFF: Objection to form. 12:00:05PM</p> <p>25 A Well, my understanding is that the 12:00:06PM</p>	<p>1 GEORGE HESSE</p> <p>2 Q Okay. So there came a point in time 12:01:09PM</p> <p>3 that you testified you became a full-time</p> <p>4 officer, correct?</p> <p>5 A Yes. 12:01:18PM</p> <p>6 Q Was there any kind of canvass letter 12:01:19PM</p> <p>7 or list that you had to come off of to get that</p> <p>8 position?</p> <p>9 A Yes. 12:01:24PM</p> <p>10 Q And you were on the Ocean Beach list; 12:01:25PM</p> <p>11 is that how it works?</p> <p>12 A It's a preferred list, yes. 12:01:29PM</p> <p>13 Q What do you mean by "preferred list"? 12:01:30PM</p> <p>14 A It's a residents list. 12:01:32PM</p> <p>15 Q So the residents of Ocean Beach get 12:01:38PM</p> <p>16 preference over other people who may be</p> <p>17 eligible?</p> <p>18 A Yes. 12:01:44PM</p> <p>19 Q Is that one of the reasons why you use 12:01:45PM</p> <p>20 the Ocean Beach residence as an address?</p> <p>21 MR. NOVIKOFF: Objection. Asked and 12:01:51PM</p> <p>22 answered in the first 10 minutes of the</p> <p>23 deposition.</p> <p>24 MR. CONNOLLY: Objection. 12:01:54PM</p> <p>25 A Repeat the question. 12:01:56PM</p>
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<p>1 GEORGE HESSE</p> <p>2 village, the village office, somebody within the</p> <p>3 village office has to fill out some sort of</p> <p>4 documentation changing his status or any</p> <p>5 officer's status.</p> <p>6 Q Just for your understanding, if he was 12:00:23PM</p> <p>7 working in the off season, then he couldn't have</p> <p>8 been properly classified as a seasonal officer;</p> <p>9 is that your understanding?</p> <p>10 MR. NOVIKOFF: Objection. 12:00:35PM</p> <p>11 A His classification could have been 12:00:42PM</p> <p>12 still seasonal. I really don't know.</p> <p>13 Q But then he's working outside of 12:00:46PM</p> <p>14 class, correct?</p> <p>15 MR. NOVIKOFF: Objection. 12:00:50PM</p> <p>16 A Oh, yeah. Yes. 12:00:51PM</p> <p>17 Q So just so I'm clear. I just want to 12:00:54PM</p> <p>18 make sure I'm clear in my understanding. So</p> <p>19 either he was classified as part-time or he was</p> <p>20 misclassified if he was classified as seasonal,</p> <p>21 correct?</p> <p>22 MR. NOVIKOFF: Objection to form. 12:01:05PM</p> <p>23 MR. CALLAHAN: Objection to form. 12:01:07PM</p> <p>24 MR. CONNOLLY: Objection. 12:01:08PM</p> <p>25 A Yes. 12:01:08PM</p>	<p>1 GEORGE HESSE</p> <p>2 Q Is one of the reasons why you used 12:01:57PM</p> <p>3 Ocean Beach as your address to get onto that</p> <p>4 preferred list?</p> <p>5 MR. NOVIKOFF: Objection. 12:02:04PM</p> <p>6 A At the time, yes. 12:02:05PM</p> <p>7 Q How long did you hold the title of 12:02:15PM</p> <p>8 full-time police officer?</p> <p>9 A From November of '95 till present. 12:02:21PM</p> <p>10 Q So your title is police officer? 12:02:30PM</p> <p>11 A Correct. 12:02:31PM</p> <p>12 Q That's the same title Ed Carter had 12:02:32PM</p> <p>13 when he worked there?</p> <p>14 MR. NOVIKOFF: Objection. 12:02:36PM</p> <p>15 A No. 12:02:36PM</p> <p>16 Q He wasn't a police officer? 12:02:37PM</p> <p>17 A Yes. 12:02:38PM</p> <p>18 Q Well, you're full-time, he's 12:02:40PM</p> <p>19 part-time?</p> <p>20 A That's correct. 12:02:43PM</p> <p>21 MR. NOVIKOFF: Objection. 12:02:44PM</p> <p>22 BY MR. GOODSTADT: 12:02:44PM</p> <p>23 Q And you had the same title as the 12:02:45PM</p> <p>24 other full-time police officers in Ocean Beach?</p> <p>25 A Yes. 12:02:49PM</p>

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<p>1 GEORGE HESSE</p> <p>2 Q Did you ever get the title of 12:02:50PM</p> <p>3 sergeant?</p> <p>4 A Yes. 12:02:52PM</p> <p>5 Q When was that? 12:02:52PM</p> <p>6 A I believe in 2001. 12:02:53PM</p> <p>7 Q When did you first request the title 12:02:55PM</p> <p>8 of sergeant?</p> <p>9 A Maybe in 1999. 12:03:04PM</p> <p>10 Q And how did you go about requesting 12:03:05PM</p> <p>11 the title of sergeant?</p> <p>12 A I believe I wrote a memo to Ed 12:03:09PM</p> <p>13 Paradiso.</p> <p>14 Q When was the last time you looked at 12:03:12PM</p> <p>15 that memo?</p> <p>16 A I may have looked at it yesterday. I 12:03:19PM</p> <p>17 didn't read it. I just kind of looked at it. I</p> <p>18 just knew what it was.</p> <p>19 Q To prepare for today's deposition, you 12:03:24PM</p> <p>20 looked at it?</p> <p>21 A Yes. 12:03:27PM</p> <p>22 Q Where did you look at it? 12:03:27PM</p> <p>23 A In Mr. Connolly's office in 12:03:28PM</p> <p>24 Westchester.</p> <p>25 MR. GOODSTADT: Please mark that as 12:03:37PM</p>	<p>1 GEORGE HESSE</p> <p>2 A And that would be our command number. 12:04:48PM</p> <p>3 Q What do you mean by command number? 12:04:50PM</p> <p>4 A It's a number designating our police 12:04:52PM</p> <p>5 department within the County of Suffolk.</p> <p>6 Q And you see the CC on the bottom, 12:04:58PM</p> <p>7 Chief Paradiso correspondence file and original</p> <p>8 to your personnel file.</p> <p>9 Do you see that? 12:05:04PM</p> <p>10 A Yes. 12:05:05PM</p> <p>11 Q Do you know who wrote that? 12:05:05PM</p> <p>12 A No. 12:05:06PM</p> <p>13 Q That's not your handwriting? 12:05:07PM</p> <p>14 A No. 12:05:08PM</p> <p>15 Q And then you see a stamp on the bottom 12:05:09PM</p> <p>16 that says "Received February 18th, 1999."</p> <p>17 Do you see that? 12:05:13PM</p> <p>18 A Yes. 12:05:14PM</p> <p>19 Q Do you know who stamped that? 12:05:14PM</p> <p>20 A No. 12:05:16PM</p> <p>21 Q How did you deliver this to the chief? 12:05:16PM</p> <p>22 A I may have just left it on his desk. 12:05:20PM</p> <p>23 Q Was this the letterhead of Ocean Beach 12:05:23PM</p> <p>24 at the time?</p> <p>25 A At the time, yes. 12:05:27PM</p>
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<p>1 GEORGE HESSE</p> <p>2 Hesse 1.</p> <p>3 (Whereupon, Bates document 3856 was 12:03:40PM</p> <p>4 marked as Plaintiff's Exhibit 1 for</p> <p>5 identification, as of this date.)</p> <p>6 MR. NOVIKOFF: This is Hesse 1? 12:04:09PM</p> <p>7 MR. GOODSTADT: It is. 12:04:10PM</p> <p>8 I've placed in front of Mr. Hesse 12:04:15PM</p> <p>9 what's now been marked as Hesse 1. It's a</p> <p>10 one-page exhibit bearing Bates No. 3856.</p> <p>11 (Handing.)</p> <p>12 BY MR. GOODSTADT: 12:04:22PM</p> <p>13 Q Mr. Hesse, is this the memo that 12:04:22PM</p> <p>14 you're referring to that you wrote to Paradiso</p> <p>15 in '99?</p> <p>16 A I believe so. 12:04:31PM</p> <p>17 Q Is that your signature on the bottom? 12:04:31PM</p> <p>18 A Yes. 12:04:33PM</p> <p>19 Q And do you see on the bottom under 12:04:33PM</p> <p>20 your typed signature line it says "PO103." what</p> <p>21 does that stand for?</p> <p>22 A Police officer. 12:04:40PM</p> <p>23 Q Right. 12:04:43PM</p> <p>24 A Then my shield number is 103. 12:04:43PM</p> <p>25 Q And what is the slash 8900? 12:04:45PM</p>	<p>1 GEORGE HESSE</p> <p>2 Q Do you know who created the letterhead 12:05:28PM</p> <p>3 for Ocean Beach?</p> <p>4 A No. 12:05:31PM</p> <p>5 Q Okay. And now you asked for a 12:05:32PM</p> <p>6 provisional appointment to sergeant.</p> <p>7 Do you see that? 12:05:37PM</p> <p>8 A Yes. 12:05:38PM</p> <p>9 Q What does that mean, a provisional 12:05:38PM</p> <p>10 appointment?</p> <p>11 A I believe that you could be appointed 12:05:42PM</p> <p>12 provisionally to a certain position pending the</p> <p>13 taking of the next scheduled test.</p> <p>14 Q What's the basis of your belief on 12:05:49PM</p> <p>15 that?</p> <p>16 A Somebody, I think, told me that. 12:05:53PM</p> <p>17 Q Do you know who told you that? 12:05:55PM</p> <p>18 A I don't recall. 12:05:56PM</p> <p>19 Q And so as of 1999, you had not taken 12:05:59PM</p> <p>20 the sergeant's test?</p> <p>21 A I don't recall. I may have tried to 12:06:07PM</p> <p>22 have taken the test at one time.</p> <p>23 Q At one time prior to '99? 12:06:11PM</p> <p>24 A It's possible. I don't know. 12:06:13PM</p> <p>25 Q How many times have you taken the 12:06:14PM</p>

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1 **GEORGE HESSE**
2 **sergeant's test?**
3 A I was assigned to take it four times. 12:06:17PM
4 I believe I took it three times. I was a
5 no-show on one other.
6 **Q Did you pass it on any of the three 12:06:30PM**
7 **times you took it?**
8 A No. 12:06:33PM
9 **Q So you failed the sergeant's test 12:06:33PM**
10 **three times?**
11 A Yes. 12:06:36PM
12 **Q When was the first time you took it? 12:06:37PM**
13 A I don't recall. 12:06:38PM
14 **Q You don't recall what year it was? 12:06:39PM**
15 A No. 12:06:41PM
16 **Q When was the second time you took it? 12:06:42PM**
17 A I don't recall. 12:06:43PM
18 **Q Do you recall when the last time you 12:06:44PM**
19 **took it?**
20 A I took it in June of '07. 12:06:46PM
21 **Q Do you recall what your score was? 12:06:52PM**
22 A 65. 12:06:53PM
23 **Q And what was the required score? 12:06:54PM**
24 A 70. 12:06:55PM
25 **Q Do you recall what your scores were 12:06:58PM**

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1 **GEORGE HESSE**
2 **the other two times you took it?**
3 A No, I don't recall. 12:07:02PM
4 **Q Do you need to pass a sergeant's test 12:07:05PM**
5 **to be a sergeant?**
6 MR. NOVIKOFF: Objection. 12:07:10PM
7 MR. CONNOLLY: Objection. 12:07:10PM
8 A I believe so, yes. 12:07:11PM
9 **Q And what's your basis of that belief? 12:07:12PM**
10 A It's a promotional exam to sergeant. 12:07:14PM
11 **Q And then you write in your memo 12:07:19PM**
12 **here -- well, strike that, before the memo.**
13 **When were you a no-show to the test? 12:07:26PM**
14 A I don't recall. 12:07:29PM
15 **Q Do you recall what year it was? 12:07:31PM**
16 A Nope. 12:07:32PM
17 **Q Why didn't you show up? 12:07:34PM**
18 A I don't recall. 12:07:40PM
19 **Q Do you have to provide a reason why 12:07:44PM**
20 **you don't show up to the county?**
21 A No. 12:07:47PM
22 **Q You don't recall being out the night 12:07:53PM**
23 **before drinking that you didn't show up?**
24 MR. NOVIKOFF: Again, I didn't 12:07:57PM
25 understand the question. You kind of

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1 **GEORGE HESSE**
2 mumbled and tailed off.
3 BY MR. GOODSTADT: 12:08:02PM
4 **Q I said, you don't recall being out 12:08:02PM**
5 **drinking the night before that you were a**
6 **no-show?**
7 MR. NOVIKOFF: Objection to form. 12:08:08PM
8 MR. CONNOLLY: Objection. 12:08:09PM
9 A No. 12:08:10PM
10 **Q Did you ever report to anybody at the 12:08:10PM**
11 **beach the fact that you had failed the**
12 **sergeant's test each time?**
13 A No. 12:08:16PM
14 **Q How were you alerted to the fact of 12:08:22PM**
15 **your score? Was it posted somewhere? Did you**
16 **get a letter or something?**
17 MR. NOVIKOFF: Objection. 12:08:28PM
18 A I received a letter. 12:08:28PM
19 **Q Each time? 12:08:32PM**
20 A Yes. 12:08:33PM
21 **Q Did you keep copies of those letters? 12:08:46PM**
22 A No. 12:08:48PM
23 **Q Did you throw them out? 12:08:48PM**
24 A Yeah. 12:08:49PM
25 **Q As a police officer, as a full-time 12:08:55PM**

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1 **GEORGE HESSE**
2 **police officer, are there any restrictions on**
3 **supervisory powers that you're entitled to have?**
4 MR. NOVIKOFF: Objection to form. 12:09:05PM
5 A Repeat the question. 12:09:15PM
6 **Q Yeah. 12:09:16PM**
7 **As a full-time police officer, as 12:09:16PM**
8 **opposed to any of the promotional roles,**
9 **sergeant, lieutenant, chief, is there any**
10 **restriction on the supervisory power that you're**
11 **entitled to have?**
12 MR. CALLAHAN: Objection to form. 12:09:29PM
13 MR. CONNOLLY: Yeah, same objection. 12:09:30PM
14 MR. NOVIKOFF: Objection. 12:09:32PM
15 A No. 12:09:34PM
16 **Q So you're not aware of any 12:09:36PM**
17 **restrictions on powers that you can have in a**
18 **supervisor role?**
19 MR. NOVIKOFF: Note my objection. 12:09:42PM
20 A No. 12:09:43PM
21 **Q And you see in the memo, if you look 12:09:47PM**
22 **down on the second line --**
23 A Uh-huh. 12:09:53PM
24 **Q -- the last word says -- that sentence 12:09:53PM**
25 **says, "The undersigned officer feels since I**

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<p>1 GEORGE HESSE</p> <p>2 already assumed the role of a supervisor, that</p> <p>3 this appointment will help the police department</p> <p>4 as a whole," et cetera.</p> <p>5 Do you see that line? 12:10:05PM</p> <p>6 A Yes, I do. 12:10:06PM</p> <p>7 Q What were you referring to when you 12:10:07PM</p> <p>8 said "since I already assumed the role of a</p> <p>9 supervisor"?</p> <p>10 A I was a full-time police officer, I 12:10:13PM</p> <p>11 was a senior officer, according to being</p> <p>12 full-time, and Chief Paradiso already had</p> <p>13 established that I was in charge of the shifts.</p> <p>14 Q In charge of which shifts? 12:10:25PM</p> <p>15 A The shifts that I was on, working. 12:10:27PM</p> <p>16 Q Did you have a set assigned shift in 12:10:30PM</p> <p>17 or around '99?</p> <p>18 A I pretty much worked the standard 12:10:35PM</p> <p>19 schedule, yes.</p> <p>20 Q What standard schedule? What's the 12:10:38PM</p> <p>21 hours of that shift?</p> <p>22 A For a long time, I worked Fridays and 12:10:42PM</p> <p>23 Saturdays from 9 at night until 5 in the</p> <p>24 morning, and then on Sundays I worked a 4 to 12,</p> <p>25 and then on Mondays and Tuesdays I worked from</p>	<p>1 GEORGE HESSE</p> <p>2 Q Who told him that? 12:12:04PM</p> <p>3 A The mayor. Mayor Rogers, to be exact. 12:12:05PM</p> <p>4 Q Do you know why she told him that? 12:12:09PM</p> <p>5 A Yes. 12:12:11PM</p> <p>6 Q And why did she tell him that? 12:12:11PM</p> <p>7 A It was a form of disciplinary action 12:12:15PM</p> <p>8 against Ed Paradiso.</p> <p>9 Q And what was he being disciplined for? 12:12:19PM</p> <p>10 A I believe it was for double-dipping. 12:12:23PM</p> <p>11 Q And how did you learn that that was a 12:12:29PM</p> <p>12 form of disciplinary action against Paradiso?</p> <p>13 A Because I knew a complaint was filed 12:12:33PM</p> <p>14 against Paradiso by somebody in the village, and</p> <p>15 I believe it was very slightly investigated and</p> <p>16 he was switched to the night tours.</p> <p>17 Q Who filed a complaint? 12:12:50PM</p> <p>18 A I believe it was a Dale Wyckoff. 12:12:52PM</p> <p>19 Q Wyckoff? 12:12:58PM</p> <p>20 A W-Y-C-K-O-F-F. 12:13:01PM</p> <p>21 Q Is that a male or a female, Dale 12:13:06PM</p> <p>22 Wyckoff?</p> <p>23 A Female. 12:13:09PM</p> <p>24 Q Any relation to Doug Wyckoff? 12:13:10PM</p> <p>25 A Yes. 12:13:13PM</p>
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<p>1 GEORGE HESSE</p> <p>2 8:00 a.m. till 4 p.m.</p> <p>3 Q Were there any other full-time 12:10:57PM</p> <p>4 officers in '99 other than for you and</p> <p>5 Paradiso --</p> <p>6 A No. 12:11:02PM</p> <p>7 Q -- at Ocean Beach? 12:11:02PM</p> <p>8 A No. 12:11:04PM</p> <p>9 Q And what were Paradiso's hours? 12:11:06PM</p> <p>10 A He pretty much worked straight day 12:11:09PM</p> <p>11 tours. He worked, I believe, from Wednesday</p> <p>12 till Sunday, 8 till 4.</p> <p>13 Q Did that ever change, those regular 12:11:24PM</p> <p>14 tours for Paradiso?</p> <p>15 A At some point, yes. 12:11:29PM</p> <p>16 Q When did it change? 12:11:30PM</p> <p>17 And I don't mean once he went on leave 12:11:34PM</p> <p>18 and he didn't have any more tours. I'm talking</p> <p>19 about until he went on leave.</p> <p>20 A I'm not sure of the date. It might 12:11:41PM</p> <p>21 have been 2001, 2002.</p> <p>22 Q And what did his tours change to? 12:11:45PM</p> <p>23 A He -- he was told to work the night 12:11:49PM</p> <p>24 tours on Fridays and Saturdays and holiday</p> <p>25 Sundays.</p>	<p>1 GEORGE HESSE</p> <p>2 Q What's the relationship? 12:13:13PM</p> <p>3 A Well, there's Doug senior, who is her 12:13:14PM</p> <p>4 ex-husband, and her son.</p> <p>5 Q Any relationship to a Marissa Wyckoff? 12:13:22PM</p> <p>6 A That would be her daughter. 12:13:24PM</p> <p>7 Q Marissa Wyckoff worked for you at some 12:13:25PM</p> <p>8 point --</p> <p>9 A Yes. 12:13:29PM</p> <p>10 Q -- in the police department? 12:13:29PM</p> <p>11 There was a Doug Wyckoff at the 12:13:39PM</p> <p>12 Halloween incident, correct?</p> <p>13 A Yes. 12:13:43PM</p> <p>14 Q Was that senior or is that the son? 12:13:43PM</p> <p>15 A Senior. 12:13:46PM</p> <p>16 Q So -- and is Doug Wyckoff the father 12:13:52PM</p> <p>17 of Marissa Wyckoff?</p> <p>18 A Doug senior, yes. 12:13:59PM</p> <p>19 Q How did you learn of the complaint 12:14:03PM</p> <p>20 filed against Paradiso?</p> <p>21 A Dale Wyckoff told me. 12:14:10PM</p> <p>22 Q Did you ever see a copy of the 12:14:12PM</p> <p>23 complaint?</p> <p>24 A No. 12:14:15PM</p> <p>25 Q And who told that you he was being -- 12:14:15PM</p>

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1 **GEORGE HESSE**
2 **that Paradiso was being disciplined for the**
3 **double-dipping allegation?**
4 A I don't recall. 12:14:22PM
5 **Q Did you speak to Mayor Rogers about** 12:14:23PM
6 **it?**
7 A I don't recall. 12:14:26PM
8 **Q And who performed the slight** 12:14:28PM
9 **investigation -- I think you called it a slight**
10 **investigation. Who performed the slight**
11 **investigation?**
12 A It was -- I believe it was Peter Bee 12:14:36PM
13 from Bee, Ready & Fishbein.
14 **Q And how do you know that Peter Bee** 12:14:45PM
15 **performed this investigation?**
16 A That's what I was told. 12:14:50PM
17 **Q By who?** 12:14:51PM
18 A I don't recall. 12:14:52PM
19 **Q Did Mayor Rogers tell you that?** 12:14:52PM
20 A I don't recall. 12:14:55PM
21 **Q Do you know what the results of the** 12:14:55PM
22 **investigation were?**
23 A I believe it was confirmed that he was 12:14:57PM
24 double-dipping.
25 **Q Do you know what led to that** 12:15:05PM

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1 **GEORGE HESSE**
2 **conclusion?**
3 A I believe it was his time sheets in 12:15:08PM
4 Ocean Beach and his time sheets in East Islip
5 School District.
6 **Q And so he was put onto your tours or** 12:15:20PM
7 **at least the Friday, Saturday tours that you**
8 **testified to before?**
9 A Yes. 12:15:25PM
10 **Q And you were put on different tours?** 12:15:26PM
11 A Yes. 12:15:29PM
12 **Q What tours were you put on when that** 12:15:31PM
13 **happened?**
14 A I was put on the day tour, which was 12:15:33PM
15 an 8 a.m. till 4 p.m.
16 **Q Did you ever discuss this change in** 12:15:40PM
17 **shift with Paradiso?**
18 A Yes. 12:15:47PM
19 **Q When?** 12:15:48PM
20 A I'm sure right after it happened, but 12:15:51PM
21 I don't recall the date.
22 **Q Did you discuss the reasons for the** 12:15:54PM
23 **change in shift with Paradiso?**
24 A You know, I don't recall. 12:16:00PM
25 **Q Did you ever discuss with Paradiso the** 12:16:02PM

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1 **GEORGE HESSE**
2 **alleged time overlap or double-dipping I think**
3 **you called it?**
4 A I don't recall. 12:16:08PM
5 **Q You don't recall one way or the other?** 12:16:09PM
6 A No. 12:16:11PM
7 **Q Again, just I know I asked the** 12:16:14PM
8 **question. I just don't remember the question.**
9 **Who told you that the reason why the** 12:16:18PM
10 **tours were being shifted was a form of**
11 **discipline?**
12 A I don't recall. 12:16:23PM
13 **Q Do you have anything that would** 12:16:25PM
14 **refresh your recollection?**
15 A Not that I'm aware of. 12:16:27PM
16 **Q Did you ever discuss with Paradiso** 12:16:28PM
17 **that he was being disciplined?**
18 A I don't recall. 12:16:35PM
19 **Q Did you ever discuss with any other** 12:16:35PM
20 **current or former Ocean Beach police officers**
21 **that that shift in the tours was a form of**
22 **discipline for Paradiso?**
23 MR. NOVIKOFF: Objection to form. 12:16:45PM
24 A I don't recall. 12:16:48PM
25 **Q Do you know if anything was put in his** 12:16:50PM

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1 **GEORGE HESSE**
2 **personnel file reflecting his being disciplined?**
3 A I never -- I have never seen anything. 12:16:55PM
4 I don't know.
5 **Q Who made the decision to discipline** 12:16:58PM
6 **him in this way?**
7 A I believe it was the mayor, but 12:17:02PM
8 that's -- I'm just guessing.
9 **Q What's the basis of that belief?** 12:17:07PM
10 A She was his boss. 12:17:09PM
11 **Q Do you know who Ms. Wyckoff complained** 12:17:15PM
12 **to?**
13 MR. CONNOLLY: You're referring to -- 12:17:23PM
14 MR. GOODSTADT: Dale Wyckoff, yes. 12:17:27PM
15 MR. CONNOLLY: Right. 12:17:28PM
16 A I believe she took her written 12:17:29PM
17 complaint and filed it with the village office
18 or the Board of Trustees. I just don't know.
19 **Q Do you know if the Board of Trustees** 12:17:36PM
20 **ever discussed it?**
21 A I don't know. 12:17:39PM
22 **Q Do you know whether the Board of** 12:17:42PM
23 **Trustees ever voted on the issue of whether or**
24 **not to discipline Paradiso in the way that**
25 **you've testified to?**

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<p>1 GEORGE HESSE</p> <p>2 A I don't know. 12:17:55PM</p> <p>3 Q Have you ever been in a Board of 12:17:57PM</p> <p>4 Trustees meeting?</p> <p>5 A Yes. 12:18:00PM</p> <p>6 Q Are you required to go to Board of 12:18:01PM</p> <p>7 Trustees meetings?</p> <p>8 MR. NOVIKOFF: Objection to form. 12:18:05PM</p> <p>9 A No. 12:18:06PM</p> <p>10 Q So you sent this memo to Paradiso, and 12:18:14PM</p> <p>11 the first sentence, it says, "As per our</p> <p>12 conversation."</p> <p>13 Do you see that? 12:18:20PM</p> <p>14 A Yes. 12:18:21PM</p> <p>15 Q What did you and Paradiso discuss in 12:18:21PM</p> <p>16 that conversation?</p> <p>17 A I don't recall. 12:18:26PM</p> <p>18 Q Do you recall anything that you 12:18:28PM</p> <p>19 discussed?</p> <p>20 A No. 12:18:29PM</p> <p>21 Q You don't recall whether you discussed 12:18:31PM</p> <p>22 the actual test, the sergeant's test with</p> <p>23 Paradiso by that time?</p> <p>24 A I don't recall. 12:18:36PM</p> <p>25 Q Was anything decided with respect to 12:18:38PM</p>	<p>1 GEORGE HESSE</p> <p>2 BY MR. GOODSTADT: 12:19:29PM</p> <p>3 Q Did you receive a provisional 12:19:30PM</p> <p>4 appointment to sergeant in 1999?</p> <p>5 A No. 12:19:34PM</p> <p>6 Q Was this request denied? 12:19:34PM</p> <p>7 A I believe so. 12:19:37PM</p> <p>8 Q Who denied it? 12:19:38PM</p> <p>9 A It may have been the chief. 12:19:40PM</p> <p>10 Q Do you know why he denied it? 12:19:44PM</p> <p>11 A No. 12:19:45PM</p> <p>12 Q Did you ever speak to him about him 12:19:45PM</p> <p>13 denying it?</p> <p>14 A I don't recall. 12:19:48PM</p> <p>15 Q How did you learn that it was denied? 12:19:49PM</p> <p>16 A I believe was told. 12:19:51PM</p> <p>17 Q By who? 12:19:52PM</p> <p>18 A By the chief. 12:19:52PM</p> <p>19 Q Did he give you the reason as to why 12:19:53PM</p> <p>20 he was denying it?</p> <p>21 A I don't recall. 12:19:57PM</p> <p>22 Q You don't recall if he gave you the 12:19:57PM</p> <p>23 reason or you don't recall what the reason was?</p> <p>24 A I don't know. I'm thinking there was 12:20:02PM</p> <p>25 something in writing that he may have given me,</p>
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<p>1 GEORGE HESSE</p> <p>2 this request for a provisional appointment in</p> <p>3 '99?</p> <p>4 A I don't recall. 12:18:46PM</p> <p>5 Q Did you actually make a proposal to 12:18:47PM</p> <p>6 the village for this position?</p> <p>7 A I don't recall. 12:18:52PM</p> <p>8 Q Do you have anything that would 12:18:54PM</p> <p>9 refresh your recollection?</p> <p>10 A There might be. I don't know. 12:18:56PM</p> <p>11 Q Anything that you can think of that 12:18:57PM</p> <p>12 would refresh your recollection?</p> <p>13 A No. 12:19:01PM</p> <p>14 Q Did you communicate this request with 12:19:04PM</p> <p>15 any trustees in 1999?</p> <p>16 A I don't recall. 12:19:11PM</p> <p>17 Q Anything that would refresh your 12:19:11PM</p> <p>18 recollection?</p> <p>19 A I don't know. 12:19:13PM</p> <p>20 Q Did you receive an appointment to the 12:19:18PM</p> <p>21 provisional sergeant's position?</p> <p>22 MR. CALLAHAN: Objection to form. 12:19:23PM</p> <p>23 MR. NOVIKOFF: I join in it. 12:19:25PM</p> <p>24 MR. GOODSTADT: I'll strike that. 12:19:28PM</p> <p>25</p>	<p>1 GEORGE HESSE</p> <p>2 but I don't recall.</p> <p>3 Q Did you keep a copy of what he gave to 12:20:17PM</p> <p>4 you in writing?</p> <p>5 A I don't recall. 12:20:21PM</p> <p>6 Q Do you know if it was put in your 12:20:22PM</p> <p>7 personnel file?</p> <p>8 A I don't know. 12:20:24PM</p> <p>9 Q When was the last time you looked at 12:20:25PM</p> <p>10 your personnel file?</p> <p>11 A Last time I looked in my personal 12:20:32PM</p> <p>12 file? You know, I don't recall.</p> <p>13 Q Last time you looked through it, do 12:20:39PM</p> <p>14 you recall seeing anything in writing with</p> <p>15 respect to a denial of your request in 1999?</p> <p>16 A No. 12:20:46PM</p> <p>17 Q Did you ever make a follow-up request 12:20:48PM</p> <p>18 for that same promotion?</p> <p>19 A I may have. 12:20:54PM</p> <p>20 Q Do you recall actually doing it? 12:20:55PM</p> <p>21 A I don't recall. 12:20:57PM</p> <p>22 MR. GOODSTADT: I apologize, that 12:21:23PM</p> <p>23 corner's ripped.</p> <p>24 (Whereupon, Bates document 3847 was 12:21:27PM</p> <p>25 marked as Plaintiff's Exhibit 2 for</p>

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<p>1 GEORGE HESSE</p> <p>2 identification, as of this date.)</p> <p>3 MR. CONNOLLY: Andrew, is this a 12:21:49PM</p> <p>4 separate exhibit or is it part --</p> <p>5 MR. GOODSTADT: It is. This is going 12:21:53PM</p> <p>6 to be Hesse 2. It's a separate exhibit.</p> <p>7 I've placed in front of Mr. Hesse 12:22:14PM</p> <p>8 what's now been marked as Hesse 2. It is a</p> <p>9 one-page document that is marked Bates</p> <p>10 No. 3847. (Handing.)</p> <p>11 BY MR. GOODSTADT: 12:22:25PM</p> <p>12 Q Mr. Hesse, have you ever seen this 12:22:26PM</p> <p>13 document that's been marked as Hesse 2?</p> <p>14 A Yes. 12:22:30PM</p> <p>15 Q Is that your signature at the bottom 12:22:30PM</p> <p>16 left corner?</p> <p>17 A Yes. 12:22:33PM</p> <p>18 Q And does this refresh your 12:22:35PM</p> <p>19 recollection as to whether you made a subsequent</p> <p>20 request for this provisional appointment</p> <p>21 promotion?</p> <p>22 A Yes. 12:22:45PM</p> <p>23 Q And this is dated March 25th, 2001, 12:22:45PM</p> <p>24 correct?</p> <p>25 A Correct. 12:22:49PM</p>	<p>1 GEORGE HESSE</p> <p>2 Q What were you referring to there? 12:23:43PM</p> <p>3 A I believe he -- well, he moved off the 12:23:46PM</p> <p>4 beach and he got a vehicle. And I'm</p> <p>5 speculating. But I really -- I really don't</p> <p>6 recall.</p> <p>7 Q You don't recall what you're referring 12:23:57PM</p> <p>8 to there?</p> <p>9 A No. The "deserved" part, no. 12:24:00PM</p> <p>10 Q The next sentence says, "He always 12:24:02PM</p> <p>11 made deals with the village without first</p> <p>12 consulting you."</p> <p>13 Do you see that? 12:24:07PM</p> <p>14 A Yes. 12:24:08PM</p> <p>15 Q What are you referring to there? 12:24:08PM</p> <p>16 A Bob was always scamming, trying to 12:24:10PM</p> <p>17 scam over the chief. He wanted to be the chief.</p> <p>18 He wanted to be in charge. He was always</p> <p>19 playing me and Paradiso and the mayor --</p> <p>20 actually, the previous mayor, Natalie Rogers,</p> <p>21 against each other. And he was just -- I think</p> <p>22 he was just plying for leadership.</p> <p>23 Q What did he do to make you believe 12:24:35PM</p> <p>24 that he was plying for leadership?</p> <p>25 A He was always badmouthing Ed Paradiso 12:24:41PM</p>
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<p>1 GEORGE HESSE</p> <p>2 Q Do you recall how you submitted this 12:22:49PM</p> <p>3 to the chief?</p> <p>4 A I may have just laid it on his desk. 12:22:54PM</p> <p>5 Q And in the second paragraph, you 12:23:02PM</p> <p>6 reference, "The last time we spoke of this, you</p> <p>7 stated 'look at what they did to Bob Golopi.'"</p> <p>8 Do you see that? 12:23:10PM</p> <p>9 A Yes. 12:23:11PM</p> <p>10 Q Do you recall the conversation that 12:23:12PM</p> <p>11 you're referring to, the last time we spoke of</p> <p>12 that, when that last conversation was?</p> <p>13 A I don't recall. 12:23:19PM</p> <p>14 Q Was that the conversation in '99 that 12:23:19PM</p> <p>15 you testified to already or is that some</p> <p>16 subsequent conversation?</p> <p>17 A I don't recall. 12:23:24PM</p> <p>18 Q Do you know what you're referring to 12:23:26PM</p> <p>19 or what Paradiso was referring to when he said</p> <p>20 "look at what they did to Bob Golopi"?</p> <p>21 A You know, I don't recall. 12:23:35PM</p> <p>22 Q The next sentence says, "Bob got what 12:23:37PM</p> <p>23 he wanted and/or deserved."</p> <p>24 Do you see that? 12:23:41PM</p> <p>25 A Yes. 12:23:42PM</p>	<p>1 GEORGE HESSE</p> <p>2 and always trying to get him into trouble for</p> <p>3 things that Ed may have done or not done. I</p> <p>4 don't know. But he was always trying to be in</p> <p>5 charge of everything.</p> <p>6 Q Was that inappropriate -- 12:24:54PM</p> <p>7 MR. NOVIKOFF: Objection. 12:24:57PM</p> <p>8 BY MR. GOODSTADT: 12:24:58PM</p> <p>9 Q -- in your mind? 12:24:59PM</p> <p>10 A Yes. 12:25:00PM</p> <p>11 Q Did he ever go outside the chain of 12:25:01PM</p> <p>12 command and complain about Paradiso?</p> <p>13 MR. NOVIKOFF: Objection. 12:25:06PM</p> <p>14 BY MR. GOODSTADT: 12:25:07PM</p> <p>15 Q Did Golopi ever go outside the chain 12:25:07PM</p> <p>16 of command to complain about Paradiso?</p> <p>17 MR. NOVIKOFF: Objection. 12:25:13PM</p> <p>18 A I don't know. 12:25:14PM</p> <p>19 Q Is going to the village and 12:25:16PM</p> <p>20 complaining about him without first going to</p> <p>21 Paradiso, is that going outside the chain of</p> <p>22 command?</p> <p>23 A Well, if he felt there was an issue 12:25:24PM</p> <p>24 with Paradiso, the next step would be the mayor,</p> <p>25 who was our police commissioner. So that is not</p>

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1 GEORGE HESSE

2 going out of the chain of command.

3 **Q Is that what he did? When you say 12:25:34PM**

4 **"deals with the village," you're referring to**

5 **the mayor?**

6 A Yes. 12:25:43PM

7 **Q And the chain of the command, should 12:25:45PM**

8 **he first have gone to Paradiso --**

9 MR. NOVIKOFF: Objection to form. 12:25:50PM

10 BY MR. GOODSTADT: 12:25:51PM

11 **Q -- with a complaint he had about 12:25:52PM**

12 **Paradiso?**

13 A Yes. 12:25:54PM

14 **Q The next paragraph, the second 12:25:56PM**

15 **sentence says, "All I asked for is the title of**

16 **sergeant."**

17 Do you see that? 12:26:04PM

18 A Yes. 12:26:04PM

19 **Q Is the sergeant, is that a competitive 12:26:04PM**

20 **position, where there needs to be a canvass**

21 **letter?**

22 MR. NOVIKOFF: Objection. 12:26:12PM

23 MR. CALLAHAN: Objection. 12:26:13PM

24 MR. CONNOLLY: Objection. 12:26:14PM

25 A On most jobs, yes. 12:26:14PM

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1 GEORGE HESSE

2 **Q How about at Ocean Beach? 12:26:16PM**

3 A Well, if I'm the only one taking the 12:26:18PM

4 test, it's just a promotion. It's not

5 comparative.

6 **Q What do you mean by "on most jobs, 12:26:24PM**

7 **yes"?**

8 A Say if it was Suffolk County PD and 12:26:27PM

9 you got 600 guys taking the sergeant's test and

10 there are four positions open, it's a

11 competitive promotion.

12 **Q So here there wouldn't have been a 12:26:37PM**

13 **canvass letter for that title, because you're**

14 **the only person going for it?**

15 MR. NOVIKOFF: Objection. 12:26:39PM

16 A You know, I don't know. 12:26:40PM

17 **Q Then the last sentence of that 12:26:44PM**

18 **paragraph, "Even Mayor Rogers refers to me as**

19 **the sergeant when she speaks to me."**

20 Do you see that? 12:26:51PM

21 A Yes. 12:26:51PM

22 **Q What did you mean by that? 12:26:51PM**

23 A She would call me Sergeant Hesse. 12:26:53PM

24 **Q Really? For how long was she calling 12:26:56PM**

25 **you Sergeant Hesse?**

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1 GEORGE HESSE

2 A Probably for as long as she's been the 12:27:00PM

3 mayor.

4 **Q Did she ever call you Chief Hesse? 12:27:03PM**

5 A Yes. 12:27:05PM

6 **Q When did that start? 12:27:06PM**

7 A When I was designated the deputy 12:27:07PM

8 chief.

9 **Q And then the first sentence of this 12:27:10PM**

10 **last paragraph says -- well, the next-to-last**

11 **paragraph, "I understand I did not do well**

12 **enough to pass the last exam."**

13 Do you see that? 12:27:21PM

14 A Yes. 12:27:22PM

15 **Q So does that refresh your recollection 12:27:22PM**

16 **as to when you took the first test?**

17 A No. 12:27:27PM

18 **Q But at least as of '01, you had taken 12:27:30PM**

19 **one and failed it, correct?**

20 A Correct. 12:27:34PM

21 **Q And when you say "the last exam," 12:27:36PM**

22 **you're referring to the sergeant's exam?**

23 A Yes. 12:27:41PM

24 **Q Did you take it again after this 12:27:47PM**

25 **do you know, the test?**

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1 GEORGE HESSE

2 A Yes. 12:27:50PM

3 **Q Two more times after that? 12:27:52PM**

4 A No. 12:27:54PM

5 **Q One more time after '01 you took it? 12:27:55PM**

6 A Yes. 12:27:57PM

7 **Q So you had taken it twice before you 12:27:58PM**

8 **wrote this letter and once after?**

9 A To the best of my recollection, yes. 12:28:02PM

10 **Q Okay. So to the best of your 12:28:04PM**

11 **recollection, you took it in '07. We discussed**

12 **that.**

13 When did you take it prior to '07, 12:28:08PM

14 **going in reverse chronological order?**

15 A I don't recall. 12:28:15PM

16 **Q You don't recall what year it was? 12:28:15PM**

17 A No. 12:28:17PM

18 **Q And you don't recall the first time 12:28:18PM**

19 **you took it?**

20 A No. 12:28:22PM

21 **Q But it's your belief that you had 12:28:23PM**

22 **taken it twice by '01, though, correct?**

23 A Yes. 12:28:26PM

24 **Q Is there a limit on the amount of 12:28:27PM**

25 **times you can take a test for sergeant?**

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1 **GEORGE HESSE**

2 MR. NOVIKOFF: Objection. 12:28:31PM

3 A Not that I'm aware of. 12:28:32PM

4 **Q Now, you write in the next-to-last 12:28:43PM**

5 **sentence in that paragraph, "According to Civil**

6 **Service, you can stay in a provisional position**

7 **pending two exams."**

8 **Do you see that? 12:28:51PM**

9 A Yes. 12:28:51PM

10 **Q What's your basis for making that 12:28:51PM**

11 **statement?**

12 A I believe I was told that. 12:28:54PM

13 **Q By who? 12:28:56PM**

14 A I don't recall. 12:28:56PM

15 **Q And what did you mean by that? What's 12:29:00PM**

16 **your understanding of "you can stay in the**

17 **provisional position pending two exams"?**

18 A I believe my understanding was if you 12:29:07PM

19 took the test and failed it, you could remain in

20 that position until you take it again and

21 hopefully pass it.

22 **Q And what happens after the second time 12:29:15PM**

23 **you fail it, your understanding?**

24 A I don't know. I would assume they 12:29:19PM

25 remove you from the provisional appointment.

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1 **GEORGE HESSE**

2 **Q Then you said, "That gives me at least 12:29:26PM**

3 **four to five years to pass the test."**

4 **Do you see that? 12:29:30PM**

5 A Yes. 12:29:31PM

6 **Q How often was the test given, at least 12:29:32PM**

7 **at that time?**

8 A It's given in two-year increments. 12:29:36PM

9 **Q Every two years? 12:29:38PM**

10 A Every two years, yes. 12:29:39PM

11 **Q And then the last sentence says, "I 12:29:43PM**

12 **hope you reconsider your last decision, and I**

13 **thank you for your time in this matter."**

14 **Do you see that? 12:29:57PM**

15 A Yes. 12:29:57PM

16 **Q Did Paradiso ever reconsider his 12:29:57PM**

17 **decision the last time?**

18 A Yes. 12:30:01PM

19 **Q Okay. And what did he do this time in 12:30:02PM**

20 **response to this letter?**

21 A I believe he gave my proposal to the 12:30:09PM

22 village board, and it was approved.

23 **Q Were you at the -- strike that. 12:30:25PM**

24 **Was it approved at a board meeting? 12:30:27PM**

25 A To my understanding, it was approved 12:30:29PM

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1 **GEORGE HESSE**

2 in executive session at a board meeting.

3 **Q You weren't at the executive session? 12:30:36PM**

4 A No. 12:30:38PM

5 **Q So how did you learn that it was 12:30:39PM**

6 **approved at the executive session?**

7 A Paradiso had told me. 12:30:42PM

8 **Q Do you know when that was approved? 12:30:47PM**

9 A The date is -- the year was 2001. To 12:30:49PM

10 tell you the truth, I don't know the exact time

11 frame. It was definitely before the summer of

12 2001.

13 **Q And did that -- was the approval for 12:31:02PM**

14 **the provisional appointment or did they appoint**

15 **you sergeant?**

16 A It might have just been sergeant. I 12:31:09PM

17 don't know what the exact --

18 **Q Did you ever receive any -- a 12:31:14PM**

19 **confirmation of it in a letter saying**

20 **congratulations, you received X position?**

21 A No, I don't recall. 12:31:21PM

22 **Q Did you receive a raise when you got 12:31:22PM**

23 **the promotion?**

24 A I don't recall. 12:31:28PM

25 **Q Did you receive any additional 12:31:29PM**

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1 **GEORGE HESSE**

2 **authority when you got the position?**

3 A I was the sergeant, that -- sergeant. 12:31:35PM

4 **Q Did that -- did that grant you with 12:31:39PM**

5 **any additional authority that you didn't have**

6 **prior to being sergeant?**

7 MR. NOVIKOFF: Objection. Form. 12:31:45PM

8 A No. 12:31:46PM

9 **Q Did you have the authority to hire or 12:31:48PM**

10 **fire officers?**

11 A No. 12:31:51PM

12 **Q Did Paradiso have that authority? 12:31:55PM**

13 A Yes. 12:31:59PM

14 **Q Do you know whether he needed board 12:31:59PM**

15 **approval to hire or fire an officer?**

16 MR. NOVIKOFF: Objection. 12:32:03PM

17 A I don't believe so. 12:32:06PM

18 **Q Do you know whether he needed approval 12:32:09PM**

19 **from Civil Service to hire and fire an officer?**

20 MR. NOVIKOFF: Objection. Form. 12:32:14PM

21 Foundation.

22 A Yes. 12:32:16PM

23 **Q He needed approval from Civil Service? 12:32:18PM**

24 A Yes. 12:32:20PM

25 **Q Do you know whether he needed approval 12:32:25PM**

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<p>1 GEORGE HESSE</p> <p>2 from anyone else other than for Civil Service</p> <p>3 before he could hire or fire?</p> <p>4 A I'm not aware of any. 12:32:33PM</p> <p>5 Q What's the basis of your understanding 12:32:36PM</p> <p>6 that he needed approval from Civil Service</p> <p>7 before hiring or firing an officer?</p> <p>8 A Well, for the position, any person 12:32:41PM</p> <p>9 within a municipality who is going to be hired,</p> <p>10 you have to meet the minimum requirements that</p> <p>11 Civil Service designates.</p> <p>12 Q And how about for terminations, did he 12:32:55PM</p> <p>13 need approval from Civil Service before firing a</p> <p>14 police officer?</p> <p>15 MR. NOVIKOFF: Objection. Form. 12:33:05PM</p> <p>16 MR. CALLAHAN: Objection. 12:33:07PM</p> <p>17 A I don't believe so. 12:33:07PM</p> <p>18 Q Did you actually appear before the 12:33:11PM</p> <p>19 board to make a proposal for this position?</p> <p>20 MR. NOVIKOFF: His position? 12:33:16PM</p> <p>21 BY MR. GOODSTADT: 12:33:17PM</p> <p>22 Q For the provisional appointment 12:33:17PM</p> <p>23 position or just a sergeant position whichever</p> <p>24 one you actually were promoted to.</p> <p>25 MR. NOVIKOFF: As referred to in 12:33:24PM</p>	<p>1 GEORGE HESSE</p> <p>2 MR. GOODSTADT: Could you mark that as 12:34:16PM</p> <p>3 Hesse 3.</p> <p>4 (Whereupon, Bates document 3845-46 was 12:34:18PM</p> <p>5 marked as Plaintiff's Exhibit 3 for</p> <p>6 identification, as of this date.)</p> <p>7 MR. CALLAHAN: How is this being 12:34:47PM</p> <p>8 marked?</p> <p>9 MR. GOODSTADT: Hesse 3. 12:34:49PM</p> <p>10 I've placed in front of Mr. Hesse 12:34:53PM</p> <p>11 what's been marked as Hesse 3. It is a</p> <p>12 two-page document bearing Bates Nos. 3845</p> <p>13 and 3846. (Handing.)</p> <p>14 BY MR. GOODSTADT: 12:35:02PM</p> <p>15 Q Mr. Hesse, have you ever seen the 12:35:03PM</p> <p>16 exhibit that's been marked as Hesse 3?</p> <p>17 A Yes. 12:35:07PM</p> <p>18 Q Does this refresh your recollection as 12:35:08PM</p> <p>19 to whether he forwarded on your document with</p> <p>20 the recommendation?</p> <p>21 A Yes. 12:35:14PM</p> <p>22 Q Did you ever discuss with him that he 12:35:14PM</p> <p>23 was going to recommend you for the position?</p> <p>24 MR. NOVIKOFF: Objection. It was a 12:35:22PM</p> <p>25 little confusing.</p>
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<p>1 GEORGE HESSE</p> <p>2 Hesse 2?</p> <p>3 MR. GOODSTADT: This is the request. 12:33:27PM</p> <p>4 He doesn't know exactly what the actual</p> <p>5 promotion was. It was either sergeant or a</p> <p>6 provisional appointment as sergeant.</p> <p>7 BY MR. GOODSTADT: 12:33:35PM</p> <p>8 Q Did you actually propose a promotion 12:33:35PM</p> <p>9 to the board?</p> <p>10 MR. CONNOLLY: Did he? 12:33:38PM</p> <p>11 BY MR. GOODSTADT: 12:33:39PM</p> <p>12 Q Yeah, did you physically go there and 12:33:39PM</p> <p>13 make a proposal to them?</p> <p>14 A No. 12:33:42PM</p> <p>15 Q Did you know that Paradiso had 12:33:45PM</p> <p>16 forwarded your request on to the board?</p> <p>17 A I don't recall how it was done. 12:33:52PM</p> <p>18 Q Do you know whether he supported that 12:33:53PM</p> <p>19 promotion at the time when he forwarded it on to</p> <p>20 the board?</p> <p>21 A I don't know what his thoughts were. 12:34:00PM</p> <p>22 Q Did you ever see the letter that he 12:34:03PM</p> <p>23 sent or the transmission that he sent with your</p> <p>24 proposal to the board?</p> <p>25 A I may have. I don't recall. 12:34:10PM</p>	<p>1 GEORGE HESSE</p> <p>2 BY MR. GOODSTADT: 12:35:24PM</p> <p>3 Q At that time, before he sent this on, 12:35:25PM</p> <p>4 did you ever discuss with him that he was going</p> <p>5 to forward your request on with his</p> <p>6 recommendation?</p> <p>7 A I don't recall. 12:35:34PM</p> <p>8 Q Did you discuss the test with him at 12:35:34PM</p> <p>9 that point in time, the sergeant's test?</p> <p>10 A I don't recall. 12:35:38PM</p> <p>11 Q And it's your understanding that the 12:35:43PM</p> <p>12 board voted on it and approved it in executive</p> <p>13 session?</p> <p>14 MR. NOVIKOFF: Objection. Asked and 12:35:48PM</p> <p>15 answered.</p> <p>16 BY MR. GOODSTADT: 12:35:49PM</p> <p>17 Q Is that correct? 12:35:49PM</p> <p>18 A Yes. 12:35:50PM</p> <p>19 Q Did you ever see any minutes that 12:35:51PM</p> <p>20 reflect that?</p> <p>21 A No. 12:35:56PM</p> <p>22 Q Did you ever speak to any of the 12:35:57PM</p> <p>23 trustees about their approval of that</p> <p>24 appointment?</p> <p>25 A Yes. 12:36:03PM</p>

39 (Pages 153 to 156)

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1 GEORGE HESSE

2 Q Who did you speak with? 12:36:03PM

3 A Andrew Miller. 12:36:05PM

4 Q Anyone else? 12:36:06PM

5 A Not that I recall. 12:36:08PM

6 Q And what did Mr. Miller and you 12:36:12PM

7 discuss?

8 A I don't recall. 12:36:17PM

9 Q Do you recall anything that you 12:36:18PM

10 discussed with him about the appointment?

11 A I don't recall. 12:36:23PM

12 Q Did he tell you that it was 12:36:24PM

13 provisional as opposed to just sergeant?

14 A I don't recall. 12:36:30PM

15 Q Do you know whether the promotion was 12:36:36PM

16 reported to Civil Service?

17 A No, I don't. 12:36:43PM

18 Q Do you know if it was reported to the 12:36:45PM

19 State of New York?

20 A No, I don't. 12:36:48PM

21 Q Did you ever attend any supervisory 12:36:57PM

22 schools administered by the Suffolk County

23 Police?

24 MR. NOVIKOFF: Objection to form. 12:37:03PM

25 Foundation.

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1 GEORGE HESSE

2 MR. CALLAHAN: Same objection. 12:37:05PM

3 A No. 12:37:07PM

4 Q Is that a requirement to become a 12:37:08PM

5 sergeant to attend a supervisory school?

6 MR. NOVIKOFF: Objection. Form. 12:37:14PM

7 MR. CALLAHAN: Same. 12:37:18PM

8 MR. CONNOLLY: Same. 12:37:18PM

9 A I don't know. 12:37:20PM

10 Q You don't know one way or the other? 12:37:20PM

11 A No. 12:37:20PM

12 Q Do you know what I mean when I say 12:37:21PM

13 supervisory school administrated by the Suffolk

14 County Police?

15 A Yes. 12:37:27PM

16 Q What is that, in your understanding. 12:37:28PM

17 A I just know of a course that Suffolk 12:37:30PM

18 County offers as a supervisor school.

19 Q And you never took that course? 12:37:38PM

20 A No. 12:37:40PM

21 Q And you don't know one way or the 12:37:40PM

22 other whether it's required to be a sergeant to

23 take that course, correct?

24 MR. NOVIKOFF: Objection. Form. 12:37:47PM

25 MR. CALLAHAN: Same. 12:37:48PM

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1 GEORGE HESSE

2 A I don't know. 12:37:49PM

3 Q Did you receive any training from 12:37:50PM

4 Suffolk County to be a sergeant?

5 A No. 12:37:56PM

6 Q Did you go to any training -- other 12:37:58PM

7 than for it being on the job, did you go to any

8 formal training to be a sergeant?

9 A No. 12:38:07PM

10 Q Did you have a business card at that 12:38:09PM

11 time?

12 A I believe I did. 12:38:12PM

13 Q Did you change your business card to 12:38:13PM

14 reflect sergeant?

15 A I'm sure I did. 12:38:16PM

16 Q Did it say provisional in there at 12:38:18PM

17 all?

18 A Not that I'm aware of, no. 12:38:22PM

19 Q Did you create your own business card 12:38:24PM

20 or did somebody -- or did someone at Ocean Beach

21 who was responsible for creating the business

22 cards?

23 MR. NOVIKOFF: Objection. Form. 12:38:32PM

24 A I believe I created it. 12:38:33PM

25 Q And you went out and got somebody to 12:38:35PM

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1 GEORGE HESSE

2 print them up?

3 A No. 12:38:39PM

4 Q You printed them up yourself? 12:38:40PM

5 A Yes. 12:38:42PM

6 Q Did you have a change in your uniform 12:38:45PM

7 to reflect the fact that you had been promoted

8 to sergeant?

9 A Yes. 12:38:52PM

10 Q What did you have, the three chevron 12:38:52PM

11 patch or something that reflected your

12 promotion?

13 A Yes. 12:38:57PM

14 Q Is that what you had, a three chevron 12:38:57PM

15 patch?

16 A Yes. 12:39:00PM

17 Q And where did you get that patch from? 12:39:01PM

18 A I believe it was ordered from the 12:39:04PM

19 uniform supply store.

20 Q And you wore that on your sleeve? 12:39:10PM

21 A Yes. 12:39:13PM

22 Q Was there any change to your shield 12:39:16PM

23 that reflects that you're a sergeant?

24 A Yes. 12:39:20PM

25 Q What was the change on your shield 12:39:20PM

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1 **GEORGE HESSE**
2 **that reflected a sergeant?**
3 A I was issued a sergeant's shield. 12:39:23PM
4 **Q By who? 12:39:25PM**
5 A Ed Paradiso. 12:39:26PM
6 **Q And when were you issued that shield? 12:39:31PM**
7 A I believe it had to be ordered, so I 12:39:37PM
8 don't really recall the exact date.
9 **Q Sometime in or around 2001? 12:39:41PM**
10 A Yes. 12:39:44PM
11 **Q Did you hold yourself out to anybody 12:39:47PM**
12 **outside of the beach as a sergeant?**
13 MR. CALLAHAN: Objection to form. 12:39:54PM
14 MR. NOVIKOFF: Yeah, objection. 12:39:55PM
15 MR. CONNOLLY: Objection. 12:39:56PM
16 A Yes. 12:39:56PM
17 **Q Who did you hold yourself out to be -- 12:39:57PM**
18 **who did you hold yourself out to as a sergeant**
19 **outside of Ocean Beach?**
20 A The world. 12:40:05PM
21 **Q So it wasn't your understanding that 12:40:06PM**
22 **this was some internal title, correct?**
23 MR. NOVIKOFF: Objection. 12:40:11PM
24 MR. CONNOLLY: Objection. 12:40:12PM
25 A I was the sergeant. I was promoted 12:40:14PM

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1 **GEORGE HESSE**
2 internally, yes.
3 **Q So if I were to tell you that there 12:40:18PM**
4 **was some testimony by a village official that**
5 **this was just an internal title, would that be**
6 **news to you?**
7 A No. 12:40:28PM
8 **Q It wouldn't? 12:40:29PM**
9 A No. 12:40:30PM
10 **Q So you've been told in the past that 12:40:30PM**
11 **this is an internal title?**
12 A Recently, yes. 12:40:34PM
13 **Q How recently -- how about at the time? 12:40:35PM**
14 A At the time, no. 12:40:37PM
15 **Q When were you told it was just an 12:40:38PM**
16 **internal title?**
17 A Probably within the last two years 12:40:42PM
18 now.
19 **Q Uh-huh. Who told you that? 12:40:45PM**
20 A Mayor Joe Loeffler. 12:40:47PM
21 **Q When did he tell you that in the last 12:40:48PM**
22 **two years?**
23 A I don't recall. 12:40:51PM
24 **Q Do you recall what year it was? 12:40:51PM**
25 A It was within the last two years. 12:40:53PM

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1 **GEORGE HESSE**
2 **Q And were you sergeant at the time he 12:40:55PM**
3 **told you that or had you received another**
4 **promotion since then?**
5 A I received another promotion since 12:41:01PM
6 then.
7 **Q Did anyone ever tell you that the 12:41:04PM**
8 **sergeant title was just internal?**
9 A No. 12:41:08PM
10 **Q So even Joe Loeffler didn't tell you 12:41:08PM**
11 **the sergeant title was internal?**
12 A Joe Loeffler wasn't a trustee at the 12:41:14PM
13 time.
14 **Q At what time? 12:41:17PM**
15 A At the time when I was given the 12:41:18PM
16 sergeant's.
17 **Q So at the time you held the sergeant 12:41:21PM**
18 **title and held yourself out to the world as a**
19 **sergeant, did anybody tell you that it was just**
20 **an internal title?**
21 A No. 12:41:29PM
22 MR. CALLAHAN: Objection to form. 12:41:31PM
23 MR. NOVIKOFF: I join in. I don't 12:41:33PM
24 like anyone to be alone.
25 MR. CALLAHAN: Thank you. 12:41:43PM

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1 **GEORGE HESSE**
2 BY MR. GOODSTADT: 12:41:56PM
3 **Q So before, I asked you whether you had 12:41:57PM**
4 **the same title currently, your Civil Service was**
5 **a full-time police officer and you told me it**
6 **was. And then I asked you was it the same title**
7 **as Ed Carter, and you told me it wasn't. But do**
8 **you and Ed Carter hold the same police**
9 **certificate?**
10 MR. NOVIKOFF: Objection. 12:42:19PM
11 MR. CONNOLLY: Objection. 12:42:19PM
12 A Yes. 12:42:20PM
13 **Q Same thing with Mr. Fiorillo, 12:42:21PM**
14 **Mr. Lamm, Mr. Snyder?**
15 MR. NOVIKOFF: Same objection. 12:42:26PM
16 A Yes. 12:42:27PM
17 **Q Mr. Nofi? 12:42:28PM**
18 MR. NOVIKOFF: Same objection. 12:42:30PM
19 A Yes. 12:42:30PM
20 **Q Yes? 12:42:31PM**
21 A Yes. 12:42:32PM
22 **Q Did there come a point in time that 12:42:32PM**
23 **you were promoted from the sergeant title?**
24 A Yes. 12:42:37PM
25 **Q And when did that happen? 12:42:38PM**

<p style="text-align: right;">Page 165</p> <p>1 GEORGE HESSE</p> <p>2 A I believe the date was January 18th, 12:42:41PM</p> <p>3 2006.</p> <p>4 Q And what title did you receive a 12:42:48PM</p> <p>5 promotion to in January of 2006?</p> <p>6 A Acting deputy chief. 12:42:58PM</p> <p>7 Q And is that something that you applied 12:43:10PM</p> <p>8 for or put in a request for like you had done</p> <p>9 for the sergeant position?</p> <p>10 A No. 12:43:16PM</p> <p>11 Q Did you actually have to fill out any 12:43:17PM</p> <p>12 work, any paperwork when you got the sergeant</p> <p>13 position to reflect that change?</p> <p>14 A Not that I recall. 12:43:25PM</p> <p>15 Q Did you have to fill out any 12:43:26PM</p> <p>16 application for that position other than for the</p> <p>17 two letters that we've seen?</p> <p>18 A Not that I recall. 12:43:32PM</p> <p>19 Q Now, the -- so the deputy -- acting 12:43:35PM</p> <p>20 deputy chief, is that what you said?</p> <p>21 A Correct. 12:43:40PM</p> <p>22 Q How did you learn that you were up for 12:43:41PM</p> <p>23 that position?</p> <p>24 A I was approached by Joe Loeffler, and 12:43:44PM</p> <p>25 he said she was going to make that suggestion to</p>	<p style="text-align: right;">Page 167</p> <p>1 GEORGE HESSE</p> <p>2 board for my new position.</p> <p>3 Q Do you know whether -- do you know 12:44:52PM</p> <p>4 when the recommendation was made to the board?</p> <p>5 A I don't know. 12:44:57PM</p> <p>6 Q Were you at the meeting at which it 12:44:58PM</p> <p>7 was made?</p> <p>8 A No. 12:45:00PM</p> <p>9 Q Do you know whether it was reported to 12:45:03PM</p> <p>10 the public prior to the board proposal?</p> <p>11 A Not that I'm aware of. 12:45:07PM</p> <p>12 Q And how are you aware that he actually 12:45:12PM</p> <p>13 was going to move forward and make that</p> <p>14 proposal?</p> <p>15 A He told me. 12:45:20PM</p> <p>16 Q And that was in '05? 12:45:22PM</p> <p>17 A Yes. 12:45:23PM</p> <p>18 Q Did he tell you when he was going to 12:45:24PM</p> <p>19 make that proposal?</p> <p>20 A Not exactly, no. 12:45:27PM</p> <p>21 Q Did you take on the role prior to the 12:45:28PM</p> <p>22 proposal being made, like, for example, he told</p> <p>23 you in '05 he was going to make the proposal.</p> <p>24 According to you it was done in '06 in January.</p> <p>25 During the period from when he told you until</p>
<p style="text-align: right;">Page 166</p> <p>1 GEORGE HESSE</p> <p>2 the board.</p> <p>3 Q And is that a position that a canvass 12:43:54PM</p> <p>4 letter would ordinarily go out to?</p> <p>5 MR. CALLAHAN: Objection to form. 12:43:59PM</p> <p>6 A I don't know. 12:44:00PM</p> <p>7 Q You don't know one way or the other? 12:44:01PM</p> <p>8 A No. 12:44:04PM</p> <p>9 Q When did Mr. Loeffler approach you to 12:44:04PM</p> <p>10 tell you that he was going to make that proposal</p> <p>11 to the board?</p> <p>12 A I don't recall any specific date. 12:44:09PM</p> <p>13 Q What was his title at the time? 12:44:10PM</p> <p>14 A Trustee. 12:44:12PM</p> <p>15 Q Do you recall what year it was that he 12:44:15PM</p> <p>16 told you this?</p> <p>17 A It had to be in 2005 at some point. 12:44:17PM</p> <p>18 Q Do you recall what month it was? 12:44:23PM</p> <p>19 A No, I don't. 12:44:25PM</p> <p>20 Q What did he tell you? 12:44:27PM</p> <p>21 A Well, at that point, Paradiso had 12:44:34PM</p> <p>22 taken his leave, and he felt that the police</p> <p>23 department still needs to move forward and</p> <p>24 needed a certain sort of leadership and that he</p> <p>25 was going to make the recommendation to the</p>	<p style="text-align: right;">Page 168</p> <p>1 GEORGE HESSE</p> <p>2 the time that the proposal was made, had you</p> <p>3 taken on the role of deputy chief of police</p> <p>4 or -- deputy chief of police or acting deputy</p> <p>5 chief of police.</p> <p>6 MR. NOVIKOFF: Objection to form. 12:45:56PM</p> <p>7 MR. CONNOLLY: Objection to form. 12:45:57PM</p> <p>8 MR. CALLAHAN: Objection. 12:45:59PM</p> <p>9 A I don't know if I assumed the role. I 12:46:00PM</p> <p>10 did the job.</p> <p>11 Q And do you know whether the proposal 12:46:05PM</p> <p>12 was actually made to the board?</p> <p>13 A No. 12:46:10PM</p> <p>14 Q Did you ever see any documentation 12:46:11PM</p> <p>15 that demonstrates that it was?</p> <p>16 A After I was approved, I did. 12:46:16PM</p> <p>17 Q And how did you learn that it was made 12:46:18PM</p> <p>18 and approved?</p> <p>19 A Well, I was at the board meeting when 12:46:21PM</p> <p>20 they made the appointment.</p> <p>21 Q So you were there when they proposed 12:46:25PM</p> <p>22 it and voted on it?</p> <p>23 A Yes. It was in a public forum. Yes. 12:46:28PM</p> <p>24 Q Did you have to present anything to 12:46:32PM</p> <p>25 the board in that meeting?</p>

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1 **GEORGE HESSE**

2 A No. 12:46:35PM

3 **Q Did anyone speak on your behalf when 12:46:37PM**

4 **the proposal was made?**

5 A I believe Trustee Loeffler did. 12:46:41PM

6 **Q Do you recall what he said? 12:46:45PM**

7 A Not exactly, no. 12:46:47PM

8 **Q Who was the mayor at the time? 12:46:49PM**

9 A Natalie Rogers. 12:46:51PM

10 **Q Did you ever speak to Chief Paradiso 12:46:55PM**

11 **about the proposal that you'd be made deputy**

12 **chief or acting deputy chief of police?**

13 A No. 12:47:06PM

14 **Q Did you ever learn of a conversation 12:47:08PM**

15 **that Paradiso had with Rogers about that**

16 **appointment?**

17 A I vaguely remember something, yes. 12:47:18PM

18 **Q What do you remember? 12:47:20PM**

19 A That he felt that I wasn't right for 12:47:21PM

20 **the job.**

21 **Q Do you know why he felt that? 12:47:24PM**

22 A I'm sure he was threatened. 12:47:26PM

23 **Q Did you ever discuss with him -- 12:47:28PM**

24 A No. 12:47:30PM

25 **Q -- his position on that? 12:47:30PM**

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1 **GEORGE HESSE**

2 A No. 12:47:31PM

3 MR. NOVIKOFF: I'm sorry, what was his 12:47:32PM

4 answer before that last question?

5 MR. GOODSTADT: He thought he was 12:47:36PM

6 threatened.

7 MR. NOVIKOFF: Paradiso thought he was 12:47:38PM

8 threatened?

9 MR. GOODSTADT: Yes. 12:47:40PM

10 A Not physically, but his job. 12:47:42PM

11 **Q That's just your speculation, right? 12:47:43PM**

12 **You never spoke to him about that?**

13 A No. 12:47:47PM

14 **Q Did you ever speak to Rogers about 12:47:49PM**

15 **Paradiso's position with respect to your**

16 **promotion?**

17 A I don't recall. 12:47:56PM

18 **Q How did you learn of that conversation 12:47:57PM**

19 **that Paradiso had with Rogers?**

20 A I don't recall. 12:48:02PM

21 **Q Who was the police commissioner at the 12:48:04PM**

22 **time?**

23 MR. NOVIKOFF: Objection. 12:48:06PM

24 A Natalie Rogers. 12:48:08PM

25 **Q Was there a police liaison at the 12:48:14PM**

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1 **GEORGE HESSE**

2 **time?**

3 MR. NOVIKOFF: Objection to the form 12:48:20PM

4 of the question.

5 A Not that I'm aware of. 12:48:23PM

6 **Q Just you had it referred to Loeffler, 12:48:25PM**

7 **but you don't know if it was official or not?**

8 A That's correct. 12:48:29PM

9 **Q Who is the police commissioner today? 12:48:30PM**

10 A Joseph Loeffler. 12:48:32PM

11 **Q Was Paradiso still working at this 12:48:38PM**

12 **time?**

13 MR. NOVIKOFF: Objection. Form. 12:48:42PM

14 MR. CONNOLLY: Presumably you're 12:48:46PM

15 talking about the beach.

16 MR. GOODSTADT: At the beach. At the 12:48:49PM

17 beach.

18 A No. 12:48:50PM

19 **Q So he was already out on his leave or 12:48:50PM**

20 **whatever he was out on?**

21 MR. NOVIKOFF: Objection. 12:48:54PM

22 A Yes. 12:48:55PM

23 **Q Yes? 12:48:55PM**

24 A Yes. 12:48:56PM

25 **Q Did you ever see the resolution that 12:48:56PM**

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1 **GEORGE HESSE**

2 **approved your appointment?**

3 A I may have. 12:49:02PM

4 **Q Was the appointment at the meeting in 12:49:06PM**

5 **January of '06, was that made to acting deputy**

6 **chief of police or deputy chief of police?**

7 A I think there's some terminology 12:49:15PM

8 problems there, but I've seen it as acting and

9 I've seen it as deputy chief.

10 **Q Well, which one was it? 12:49:22PM**

11 A To tell you the truth, I don't even 12:49:24PM

12 know.

13 **Q Is there a Civil Service test that's 12:49:26PM**

14 **required to get that promotion --**

15 MR. NOVIKOFF: Objection. 12:49:29PM

16 BY MR. GOODSTADT: 12:49:31PM

17 **Q -- to deputy chief of police? 12:49:31PM**

18 MR. CALLAHAN: Same. 12:49:33PM

19 A No. 12:49:34PM

20 **Q Is there a Civil Service test to be 12:49:34PM**

21 **chief of police?**

22 MR. NOVIKOFF: Objection. 12:49:40PM

23 MR. CALLAHAN: Same. 12:49:41PM

24 A There is one. 12:49:41PM

25 **Q Do you know whether you can be 12:49:42PM**

<p style="text-align: right;">Page 173</p> <p>1 GEORGE HESSE</p> <p>2 promoted to chief or deputy chief without first</p> <p>3 passing the sergeant's test --</p> <p>4 MR. NOVIKOFF: Objection. 12:49:49PM</p> <p>5 BY MR. GOODSTADT: 12:49:50PM</p> <p>6 Q -- on your Civil Service level? 12:49:50PM</p> <p>7 MR. NOVIKOFF: Objection. 12:49:52PM</p> <p>8 A I don't know. 12:49:52PM</p> <p>9 Q You don't know one way or the other? 12:49:53PM</p> <p>10 A I don't know. 12:49:56PM</p> <p>11 MR. GOODSTADT: Mark this. 12:49:58PM</p> <p>12 (Whereupon, Bates document 28 was 12:49:58PM</p> <p>13 marked as Plaintiff's Exhibit 4 for</p> <p>14 identification, as of this date.)</p> <p>15 MR. GOODSTADT: I've placed in front 12:50:26PM</p> <p>16 of Mr. Hesse what's now been marked as</p> <p>17 Hesse 4. It's a one-page exhibit bearing</p> <p>18 Bates No. 28. (Handing.)</p> <p>19 BY MR. GOODSTADT: 12:50:34PM</p> <p>20 Q Mr. Hesse, have you ever seen the 12:50:34PM</p> <p>21 document that's been marked as Hesse 4?</p> <p>22 A Yes. 12:50:38PM</p> <p>23 Q And this is the resolution that 12:50:38PM</p> <p>24 demonstrates that you have been designated as</p> <p>25 deputy chief of police.</p>	<p style="text-align: right;">Page 175</p> <p>1 GEORGE HESSE</p> <p>2 MR. NOVIKOFF: Objection. 12:51:35PM</p> <p>3 A It may be. I don't know. 12:51:36PM</p> <p>4 Q Do you know whether a canvass letter 12:51:38PM</p> <p>5 was distributed to anybody?</p> <p>6 MR. NOVIKOFF: Objection. 12:51:42PM</p> <p>7 A I am unaware. 12:51:42PM</p> <p>8 Q And if you see on Hesse 4, do you see 12:51:45PM</p> <p>9 where the arrow is that says "designation of</p> <p>10 George Hesse"?</p> <p>11 A Uh-huh. 12:51:54PM</p> <p>12 Q Do you see that? 12:51:53PM</p> <p>13 A Yes. 12:51:55PM</p> <p>14 Q On the second line, it says, "Trustee 12:51:55PM</p> <p>15 Loeffler made motion to designate George Hesse</p> <p>16 as deputy chief of police with all power and</p> <p>17 authority involved with that position."</p> <p>18 Do you see that? 12:52:05PM</p> <p>19 A Yes. 12:52:06PM</p> <p>20 Q Do you know what power and authority 12:52:06PM</p> <p>21 is involved with that position?</p> <p>22 MR. NOVIKOFF: Note my objection. 12:52:13PM</p> <p>23 MR. CALLAHAN: Objection to form also. 12:52:14PM</p> <p>24 MR. NOVIKOFF: Yeah. 12:52:17PM</p> <p>25 A I would assume that I am in charge of 12:52:17PM</p>
<p style="text-align: right;">Page 174</p> <p>1 GEORGE HESSE</p> <p>2 Do you see that? 12:50:46PM</p> <p>3 A Yes. 12:50:47PM</p> <p>4 Q So does this refresh your recollection 12:50:51PM</p> <p>5 as to whether it was a designation to acting</p> <p>6 versus deputy, just plain deputy chief of</p> <p>7 police.</p> <p>8 MR. NOVIKOFF: Objection to form. 12:50:59PM</p> <p>9 A It says deputy. 12:51:00PM</p> <p>10 Q Is that a Civil Service title, deputy 12:51:01PM</p> <p>11 chief of police?</p> <p>12 MR. NOVIKOFF: Objection. 12:51:05PM</p> <p>13 A Yes. 12:51:05PM</p> <p>14 Q Do you know whether this promotion was 12:51:10PM</p> <p>15 reported to Civil Service?</p> <p>16 A Not that I'm aware of. 12:51:13PM</p> <p>17 Q Did you receive a pay increase with 12:51:15PM</p> <p>18 this promotion?</p> <p>19 A I don't think so. 12:51:21PM</p> <p>20 Q Do you know whether this promotion was 12:51:23PM</p> <p>21 approved by Civil Service?</p> <p>22 MR. CALLAHAN: Objection to form. 12:51:28PM</p> <p>23 A I am unaware. 12:51:29PM</p> <p>24 Q Is deputy chief of police, is that an 12:51:31PM</p> <p>25 open competitive position?</p>	<p style="text-align: right;">Page 176</p> <p>1 GEORGE HESSE</p> <p>2 all aspects of the police department.</p> <p>3 Q And did your role change at all when 12:52:23PM</p> <p>4 you received that promotion?</p> <p>5 A Slightly. 12:52:28PM</p> <p>6 MR. NOVIKOFF: Objection. 12:52:29PM</p> <p>7 BY MR. GOODSTADT: 12:52:29PM</p> <p>8 Q What do you mean by slightly? 12:52:29PM</p> <p>9 A I now had the powers to hire and 12:52:31PM</p> <p>10 remove.</p> <p>11 Q Okay. Who did you report to in this 12:52:38PM</p> <p>12 position?</p> <p>13 A The mayor and the mayor alone. 12:52:40PM</p> <p>14 Q Okay. So you got more power in terms 12:52:42PM</p> <p>15 of the ability to hire and fire. Your reporting</p> <p>16 relationship changed too, correct? You were</p> <p>17 reporting to Paradiso, and now you're reporting</p> <p>18 only to the mayor?</p> <p>19 A Yes. 12:52:55PM</p> <p>20 Q Any other changes to your duties or 12:52:55PM</p> <p>21 responsibilities with this promotion?</p> <p>22 A No. 12:53:03PM</p> <p>23 Q This position is senior to the 12:53:05PM</p> <p>24 position of sergeant, correct?</p> <p>25 A Yes. 12:53:08PM</p>

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1 GEORGE HESSE

2 Q Did any sergeant replace you? 12:53:08PM

3 A No. 12:53:14PM

4 Q To this day, has anybody replaced you 12:53:14PM

5 in the sergeant role? Is there a sergeant in

6 the Ocean Beach Police Department?

7 A No. 12:53:20PM

8 Q Has there been one since 12:53:21PM

9 January 28th of 2006?

10 A No. 12:53:24PM

11 Q Now that you have -- since January 20, 12:53:29PM

12 2006, you had the authority to hire and fire,

13 did you need board approval to do that?

14 A No. 12:53:37PM

15 Q Did you need approval of anyone to 12:53:41PM

16 hire and fire?

17 MR. CONNOLLY: Objection. 12:53:43PM

18 MR. NOVIKOFF: Yeah, I'm going to 12:53:44PM

19 object to that one.

20 A No. 12:53:47PM

21 Q When you became chief or deputy chief, 12:53:53PM

22 did your uniform change at all?

23 A Yes. 12:54:01PM

24 Q How did your uniform change? 12:54:01PM

25 A I removed the sergeant stripes and 12:54:03PM

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1 GEORGE HESSE

2 instead of a sergeant shield, I wore a chief

3 shield and stars on my collar.

4 Q And when did you change your uniform? 12:54:18PM

5 A Right after this designation. 12:54:24PM

6 Q Do you know who an Officer Betenhauser 12:54:33PM

7 is?

8 A Yes, I do. 12:54:36PM

9 Q And what is Officer Betenhauser's 12:54:38PM

10 title?

11 A Part-time seasonal police officer. 12:54:42PM

12 Q Has that always been his title at 12:54:45PM

13 Ocean Beach?

14 A No. 12:54:47PM

15 Q What other titles has Officer 12:54:47PM

16 Betenhauser held within Ocean Beach?

17 A Betenhauser? 12:54:52PM

18 Q Betenhauser, yes. 12:54:55PM

19 A Actually, yes. Thanks for reminding 12:54:57PM

20 me. He was promoted to a sergeant for six

21 months.

22 Q Who promoted him? 12:55:05PM

23 A I believe it was at a trustee's 12:55:07PM

24 meeting, they took a vote on it, but it came

25 from Loeffler, Joe Loeffler.

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1 GEORGE HESSE

2 Q Did he pass the sergeant's test, 12:55:17PM

3 Betenhauser?

4 MR. NOVIKOFF: Objection. 12:55:22PM

5 A Yes. 12:55:22PM

6 Q How come he only had the position for 12:55:23PM

7 six months?

8 A Because that's all that, I think, 12:55:26PM

9 Civil Service would allow in a part-time

10 seasonal position.

11 Q What's the basis of your understanding 12:55:31PM

12 of that?

13 A That's what I was told. 12:55:34PM

14 Q Did there come a point in time when 12:55:38PM

15 Civil Service questioned your role in a

16 supervisory capacity as being outside the title

17 of police officer?

18 MR. CALLAHAN: Objection to form. 12:55:48PM

19 MR. NOVIKOFF: Yeah, I join in. 12:55:50PM

20 A I'm aware of some discrepancies, but I 12:55:54PM

21 don't know exactly what it was.

22 Q When did you become aware of that? 12:56:01PM

23 A I believe a lot of it happened after 12:56:04PM

24 March 27th of 2007.

25 Q How did you become aware of it? 12:56:11PM

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1 GEORGE HESSE

2 A I believe I was sitting in an office 12:56:14PM

3 with Mayor Loeffler and Maryann Minerva in her

4 office, and I believe that Mayor Loeffler had

5 told me about some problems with the titles and

6 title issuing.

7 Q What did he tell you? 12:56:29PM

8 A I really -- I really don't recall 12:56:36PM

9 other than the fact that there was -- there's a

10 problem with the titles, my supervisory role.

11 Q What titles are you referring to? 12:56:45PM

12 A Deputy chief. 12:56:47PM

13 Q What problem did he tell you there 12:56:49PM

14 was?

15 A That -- technically, that the village 12:56:52PM

16 couldn't do what they did.

17 Q Okay. Just deputy chief or that 12:57:00PM

18 included sergeant promotion as well?

19 MR. NOVIKOFF: Objection. 12:57:04PM

20 A That included that also. 12:57:05PM

21 Q And he told you that? 12:57:06PM

22 A I don't recall. 12:57:09PM

23 Q Was anything done to rectify the 12:57:10PM

24 problem, the title problem?

25 MR. NOVIKOFF: Objection. 12:57:14PM

<p style="text-align: right;">Page 181</p> <p>1 GEORGE HESSE</p> <p>2 A No. 12:57:15PM</p> <p>3 Q Did he ever show you -- strike that. 12:57:21PM</p> <p>4 Who had questioned or who had raised 12:57:24PM</p> <p>5 the problem with the village with respect to the</p> <p>6 titles?</p> <p>7 MR. NOVIKOFF: Who was Mr. Hesse 12:57:31PM</p> <p>8 advised of as to raising the issue?</p> <p>9 MR. GOODSTADT: Yes. 12:57:37PM</p> <p>10 BY MR. GOODSTADT: 12:57:37PM</p> <p>11 Q Do you know how the village learned of 12:57:37PM</p> <p>12 this alleged problem?</p> <p>13 A I believe Civil Service. 12:57:40PM</p> <p>14 Q And what's the basis of that belief? 12:57:42PM</p> <p>15 A I believe that the mayor and maybe 12:57:44PM</p> <p>16 even Ken Gray himself went to a meeting with the</p> <p>17 county attorney and Civil Service, members of</p> <p>18 Civil Service.</p> <p>19 Q How did you learn of that meeting? 12:57:58PM</p> <p>20 A I was told. 12:57:59PM</p> <p>21 Q By who? 12:58:00PM</p> <p>22 A Joe Loeffler. 12:58:01PM</p> <p>23 Q What were you told was discussed at 12:58:02PM</p> <p>24 that meeting?</p> <p>25 A I don't recall, other than maybe my 12:58:05PM</p>	<p style="text-align: right;">Page 183</p> <p>1 GEORGE HESSE</p> <p>2 MR. NOVIKOFF: Well, then, fine, 12:59:12PM</p> <p>3 privilege.</p> <p>4 MR. GOODSTADT: There may be a certain 12:59:14PM</p> <p>5 attorney-client privilege, which again I'm</p> <p>6 not sure how appropriate it would be.</p> <p>7 BY MR. GOODSTADT: 12:59:17PM</p> <p>8 Q But just going back to the question -- 12:59:17PM</p> <p>9 MR. GOODSTADT: Could you repeat the 12:59:19PM</p> <p>10 question?</p> <p>11 (Whereupon, the referred to portion 12:59:21PM</p> <p>12 was read back by the court reporter: Did</p> <p>13 they tell you it was out of title to have</p> <p>14 the supervisory role?)</p> <p>15 A Yes, that's the correct terminology. 12:59:34PM</p> <p>16 Q Who told you that? 12:59:37PM</p> <p>17 A I believe Joe Loeffler. 12:59:38PM</p> <p>18 Q Did he tell you anything else about 12:59:42PM</p> <p>19 the title problem other than for the fact that</p> <p>20 your supervisory role was out of title?</p> <p>21 A That's all I recall. 12:59:52PM</p> <p>22 Q Did he show you the letter that came 12:59:53PM</p> <p>23 or any letter that came from Civil Service with</p> <p>24 respect to this issue?</p> <p>25 A No. 12:59:59PM</p>
<p style="text-align: right;">Page 182</p> <p>1 GEORGE HESSE</p> <p>2 title issue.</p> <p>3 Q Do you know when the meeting was held? 12:58:11PM</p> <p>4 A I don't recall. 12:58:13PM</p> <p>5 Q What was discussed with respect to 12:58:15PM</p> <p>6 your title issue? What did they tell you was</p> <p>7 discussed?</p> <p>8 MR. CALLAHAN: Objection to form. 12:58:21PM</p> <p>9 A Yeah, I don't -- that there's just a 12:58:23PM</p> <p>10 problem with the supervisory role that they had</p> <p>11 put me in.</p> <p>12 Q Did they tell you it was out of title 12:58:35PM</p> <p>13 to have the supervisory role?</p> <p>14 MR. CALLAHAN: Objection. 12:58:42PM</p> <p>15 MR. NOVIKOFF: Yeah, I just want to 12:58:44PM</p> <p>16 caution you, Mr. Hesse, that any</p> <p>17 conversations that you had with Mr. Gray in</p> <p>18 his capacity as a village lawyer, I'm taking</p> <p>19 the position as being confidential and</p> <p>20 attorney-client privileged.</p> <p>21 You can question him as to whether or 12:59:00PM</p> <p>22 not it's appropriate, but --</p> <p>23 MR. GOODSTADT: I'm not sure -- it may 12:59:06PM</p> <p>24 be privileged. I'm not sure about</p> <p>25 confidential.</p>	<p style="text-align: right;">Page 184</p> <p>1 GEORGE HESSE</p> <p>2 Q Do you recall -- you mentioned 12:59:59PM</p> <p>3 March 27, 2007 this all came out. Why is that</p> <p>4 date relevant?</p> <p>5 A That's the date that I turned myself 1:00:08PM</p> <p>6 in to the Suffolk County D.A.'s office for my</p> <p>7 indictment.</p> <p>8 Q When did you learn you were indicted? 1:00:13PM</p> <p>9 A I believe within the week preceding 1:00:19PM</p> <p>10 March 27th I had received a phone call from my</p> <p>11 attorney.</p> <p>12 Q Okay. And do you believe that the 1:00:26PM</p> <p>13 issue with respect to the supervisory role being</p> <p>14 out of title was connected with your indictment?</p> <p>15 MR. CALLAHAN: Objection to form. 1:00:36PM</p> <p>16 MR. NOVIKOFF: Objection. Same. 1:00:37PM</p> <p>17 MR. CONNOLLY: Same. 1:00:38PM</p> <p>18 A Yes. 1:00:39PM</p> <p>19 MR. GOODSTADT: Mark that, please. 1:00:41PM</p> <p>20 (Whereupon, A letter dated January 1:00:42PM</p> <p>21 2007 was marked as Plaintiff's Exhibit 5 for</p> <p>22 identification, as of this date.)</p> <p>23 MR. GOODSTADT: I've placed in front 1:01:22PM</p> <p>24 of Mr. Hesse what's been marked as Hesse 5.</p> <p>25 It is a one-page letter from Allison Sanchez</p>

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<p>1 GEORGE HESSE</p> <p>2 to Joseph Loeffler, Mayor, dated</p> <p>3 January 4th, 2007. I don't believe it</p> <p>4 contains a Bates number. (Handing.)</p> <p>5 BY MR. GOODSTADT: 1:01:42PM</p> <p>6 Q Mr. Hesse, have you ever seen the 1:01:43PM</p> <p>7 letter marked as Hesse 5?</p> <p>8 A No. 1:01:49PM</p> <p>9 Q So in January of '07 -- well, strike 1:01:50PM</p> <p>10 that.</p> <p>11 Do you recall whether this issue 1:01:53PM</p> <p>12 reflected in this letter, being that your</p> <p>13 supervisory capacity is outside of title, being</p> <p>14 raised with you in January of '07?</p> <p>15 A I don't recall. 1:02:06PM</p> <p>16 Q So seeing the fact that this letter 1:02:07PM</p> <p>17 came in January of '07, does that change your</p> <p>18 belief that your indictment had something to do</p> <p>19 with it?</p> <p>20 A Well, according to the date, correct. 1:02:17PM</p> <p>21 Q Did you ever speak with -- strike 1:02:19PM</p> <p>22 that.</p> <p>23 Do you know who Allison Sanchez is? 1:02:22PM</p> <p>24 A Yes, I do. 1:02:24PM</p> <p>25 Q Who was that? 1:02:25PM</p>	<p>1 GEORGE HESSE</p> <p>2 Q Okay. And we'll discuss those 1:03:24PM</p> <p>3 discrepancies going forward.</p> <p>4 But did you ever discuss this issue in 1:03:28PM</p> <p>5 this letter, the supervisory capacity being</p> <p>6 outside of title with Allison Sanchez?</p> <p>7 A I don't recall. 1:03:36PM</p> <p>8 Q Now, as of January 4, 2007, your title 1:03:38PM</p> <p>9 within the village or at least the one that you</p> <p>10 had been appointed to, was it still deputy chief</p> <p>11 or had you been promoted again at some point</p> <p>12 after that?</p> <p>13 A No. I think it was just always deputy 1:03:53PM</p> <p>14 chief.</p> <p>15 Q How about today, what's your title? 1:03:57PM</p> <p>16 A It's still, I would assume, deputy 1:03:59PM</p> <p>17 chief.</p> <p>18 Q Have you ever been promoted to chief? 1:04:02PM</p> <p>19 A Not officially, no. 1:04:04PM</p> <p>20 Q Have you ever held yourself out to be 1:04:05PM</p> <p>21 chief of police?</p> <p>22 A Yes. 1:04:08PM</p> <p>23 Q To the public? 1:04:08PM</p> <p>24 A Yes. 1:04:09PM</p> <p>25 Q People outside of Ocean Beach? 1:04:10PM</p>
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<p>1 GEORGE HESSE</p> <p>2 A She was the, I guess, account manager 1:02:25PM</p> <p>3 in Civil Service that handled Ocean Beach.</p> <p>4 Q Did you deal with her regularly with 1:02:31PM</p> <p>5 respect to Civil Service matters in connection</p> <p>6 with Ocean Beach?</p> <p>7 MR. NOVIKOFF: Objection to form. 1:02:39PM</p> <p>8 MR. CALLAHAN: Same. 1:02:41PM</p> <p>9 MR. CONNOLLY: Same. 1:02:41PM</p> <p>10 A Yes. 1:02:42PM</p> <p>11 Q How frequently did you speak or 1:02:42PM</p> <p>12 communicate with her starting in 2005 -- strike</p> <p>13 that -- starting in January 2006, when you</p> <p>14 received the deputy chief position?</p> <p>15 MR. CALLAHAN: Objection to form. 1:02:57PM</p> <p>16 A Actually, I was dealing with Allison 1:02:58PM</p> <p>17 earlier than 2006.</p> <p>18 Q Okay. When did you start dealing with 1:03:03PM</p> <p>19 Allison Sanchez?</p> <p>20 A I believe I started dealing with her 1:03:06PM</p> <p>21 sometime in 2005.</p> <p>22 Q With respect to what? 1:03:11PM</p> <p>23 A The hiring and also correction of some 1:03:13PM</p> <p>24 of the discrepancies with some of the police</p> <p>25 officers that were working for us.</p>	<p>1 GEORGE HESSE</p> <p>2 A Yes. 1:04:12PM</p> <p>3 Q To the State of New York, to 1:04:12PM</p> <p>4 registries?</p> <p>5 A Yes. 1:04:14PM</p> <p>6 Q Why would you hold yourself out to the 1:04:19PM</p> <p>7 State of New York registries as chief of police</p> <p>8 when that's not your title?</p> <p>9 MR. CONNOLLY: Objection to the form. 1:04:25PM</p> <p>10 You can answer. 1:04:27PM</p> <p>11 A The village gave me the designation as 1:04:30PM</p> <p>12 deputy chief, therefore I'm a chief.</p> <p>13 Q There's no difference between deputy 1:04:36PM</p> <p>14 chief and chief of police?</p> <p>15 MR. NOVIKOFF: Objection to form. 1:04:41PM</p> <p>16 MR. CALLAHAN: Objection to form also. 1:04:43PM</p> <p>17 MR. CONNOLLY: Join. 1:04:44PM</p> <p>18 A There is a difference. 1:04:45PM</p> <p>19 Q So why would you hold yourself out as 1:04:46PM</p> <p>20 chief of police if the village designated you as</p> <p>21 deputy chief?</p> <p>22 A There's nobody to be the deputy to, so 1:04:49PM</p> <p>23 therefore I am the chief.</p> <p>24 Q So you appointed yourself chief 1:04:54PM</p> <p>25 because nobody is the chief; is that correct?</p>

47 (Pages 185 to 188)

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<p>1 GEORGE HESSE</p> <p>2 MR. NOVIKOFF: Objection to form. 1:04:58PM</p> <p>3 MR. CONNOLLY: Join. 1:05:00PM</p> <p>4 A Everybody calls me the chief. 1:05:01PM</p> <p>5 Q So just going back to my question 1:05:04PM</p> <p>6 before. Have you ever spoken with Allison</p> <p>7 Sanchez about this issue?</p> <p>8 MR. CALLAHAN: Objection to form. 1:05:11PM</p> <p>9 MR. CONNOLLY: We're referring to the 1:05:12PM</p> <p>10 out-of-title issue?</p> <p>11 MR. GOODSTADT: Yeah, the out-of-title 1:05:14PM</p> <p>12 issue that's reflected in Hesse 5.</p> <p>13 A I don't recall. 1:05:17PM</p> <p>14 Q Have you ever had any communication 1:05:18PM</p> <p>15 with her about the out-of-title issue?</p> <p>16 MR. CALLAHAN: As in 5? 1:05:24PM</p> <p>17 MR. GOODSTADT: As in 5, yeah. 1:05:25PM</p> <p>18 A With me? Pertaining to -- 1:05:27PM</p> <p>19 Q With respect to your supervisory 1:05:29PM</p> <p>20 capacity being outside of your title?</p> <p>21 A I don't recall. 1:05:34PM</p> <p>22 Q Do you still have your supervisory 1:05:35PM</p> <p>23 capacity?</p> <p>24 A Yes. 1:05:38PM</p> <p>25 Q So has anything ever been done to 1:05:39PM</p>	<p>1 GEORGE HESSE</p> <p>2 Q Do you know whether Civil Service has 1:06:26PM</p> <p>3 approved the continuation of your supervisory</p> <p>4 capacity being outside of title?</p> <p>5 MR. CALLAHAN: Objection to form. 1:06:39PM</p> <p>6 A Unaware. 1:06:40PM</p> <p>7 Q You don't know one way or the other? 1:06:40PM</p> <p>8 A No. 1:06:40PM</p> <p>9 Q Have you ever spoken to anyone in 1:06:41PM</p> <p>10 Civil Service about that issue?</p> <p>11 A No. 1:06:45PM</p> <p>12 Q Just to be clear. It's your 1:06:55PM</p> <p>13 understanding that subsequent to January 2006,</p> <p>14 when you were designated deputy chief of police,</p> <p>15 that you haven't been designated in any other</p> <p>16 title by the board; is that correct?</p> <p>17 A My employment status had changed as of 1:07:08PM</p> <p>18 March 27th, 2007.</p> <p>19 Q What did that change to? 1:07:15PM</p> <p>20 A I was put on modified duty. 1:07:16PM</p> <p>21 Q By who? 1:07:19PM</p> <p>22 A I believe I received a letter from the 1:07:22PM</p> <p>23 village, the village board, maybe Mayor Loeffler</p> <p>24 himself.</p> <p>25 Q And what did the modified duty change 1:07:31PM</p>
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<p>1 GEORGE HESSE</p> <p>2 correct the problem that they're raising in</p> <p>3 Hesse 5?</p> <p>4 MR. CALLAHAN: Objection to form. 1:05:45PM</p> <p>5 MR. NOVIKOFF: Objection to form. 1:05:47PM</p> <p>6 MR. CONNOLLY: Objection. 1:05:48PM</p> <p>7 A As of right now, no. 1:05:49PM</p> <p>8 Q Is anything scheduled to happen? 1:05:50PM</p> <p>9 MR. CALLAHAN: Objection to form. 1:05:53PM</p> <p>10 A I hope so. 1:05:54PM</p> <p>11 Q What's scheduled to happen? 1:05:55PM</p> <p>12 A Next -- what is it? June 14th is 1:05:56PM</p> <p>13 the next sergeant's test.</p> <p>14 Q Is there a chief's test? 1:06:00PM</p> <p>15 A There is. 1:06:02PM</p> <p>16 Q Are you scheduled to take that as 1:06:05PM</p> <p>17 well?</p> <p>18 A That just passed. No. 1:06:07PM</p> <p>19 Q So you're in the chief role -- I just 1:06:12PM</p> <p>20 want to be clear for the record. You're in the</p> <p>21 chief role at Ocean Beach without ever passing</p> <p>22 the sergeant's test and without ever passing the</p> <p>23 chief's test, correct?</p> <p>24 MR. CALLAHAN: Objection to form. 1:06:24PM</p> <p>25 A Yes. 1:06:25PM</p>	<p>1 GEORGE HESSE</p> <p>2 with respect to your position at Ocean Beach?</p> <p>3 A Technically nothing. 1:07:42PM</p> <p>4 Q What do you mean by technically 1:07:45PM</p> <p>5 nothing?</p> <p>6 A I was still in charge of the police 1:07:49PM</p> <p>7 department. The only function I did not</p> <p>8 regularly do was go on patrol. I was not to</p> <p>9 wear a uniform. I turned in my weapon. And I</p> <p>10 basically have done all the administrative work</p> <p>11 in the department.</p> <p>12 Q Did you ever put on your uniform 1:08:05PM</p> <p>13 during the time that you were on modified duty?</p> <p>14 A Yes. 1:08:12PM</p> <p>15 Q How many times? 1:08:13PM</p> <p>16 A Twice. 1:08:15PM</p> <p>17 Q How come? 1:08:15PM</p> <p>18 A One was for a graduation ceremony for 1:08:17PM</p> <p>19 three part-time seasonal police officers I was</p> <p>20 hiring at the time.</p> <p>21 Q Was that Mills, Clemmons and Zois? 1:08:26PM</p> <p>22 A No. It was Mills, Zois and I believe 1:08:31PM</p> <p>23 Richard Tomanelli.</p> <p>24 Q And what was the other time? 1:08:37PM</p> <p>25 A The day that I hired or they got sworn 1:08:40PM</p>

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<p>1 GEORGE HESSE</p> <p>2 in, Mills, Clemmons, and Zois was promoted to</p> <p>3 full-time.</p> <p>4 Q And other than for those two 1:08:51PM</p> <p>5 occasions, did you put your uniform on at all</p> <p>6 during the modified duty period?</p> <p>7 A I don't recall if I did for any other 1:08:57PM</p> <p>8 reason.</p> <p>9 Q Did your title change during that 1:09:00PM</p> <p>10 period?</p> <p>11 A No. 1:09:03PM</p> <p>12 Q Did Loeffler take over any of your 1:09:05PM</p> <p>13 duties?</p> <p>14 A No. 1:09:10PM</p> <p>15 Q Do you still hold yourself out as 1:09:35PM</p> <p>16 chief of police during the modified duty period?</p> <p>17 A Yes. 1:09:41PM</p> <p>18 Q And the village of Ocean Beach Police 1:09:43PM</p> <p>19 Department, the letterhead, that identifies you</p> <p>20 as chief of police?</p> <p>21 A No. It just says police department 1:09:55PM</p> <p>22 now under my name.</p> <p>23 Q Did it ever identify you as chief of 1:09:57PM</p> <p>24 police?</p> <p>25 A Yes. 1:10:00PM</p>	<p>1 GEORGE HESSE</p> <p>2 Q And what computer did you make the 1:10:46PM</p> <p>3 change on?</p> <p>4 A I don't know. 1:10:50PM</p> <p>5 Q Was it in your office? 1:10:51PM</p> <p>6 A Well, it's a shared office. 1:10:53PM</p> <p>7 Q But it wasn't a computer at home, it 1:10:55PM</p> <p>8 was one within the police department?</p> <p>9 A Correct. 1:11:00PM</p> <p>10 Q How many computers are in the office? 1:11:01PM</p> <p>11 A Three. 1:11:02PM</p> <p>12 Q Do you have one on your desk? 1:11:03PM</p> <p>13 A Yes. 1:11:04PM</p> <p>14 Q Where are the other two located? 1:11:05PM</p> <p>15 A One is at the front desk and one is on 1:11:07PM</p> <p>16 the back desk.</p> <p>17 Q Do other officers have authority or 1:11:15PM</p> <p>18 permission to use your computer?</p> <p>19 MR. NOVIKOFF: Objection. 1:11:20PM</p> <p>20 BY MR. GOODSTADT: 1:11:21PM</p> <p>21 Q The one that's on your desk? 1:11:21PM</p> <p>22 MR. NOVIKOFF: Compound. 1:11:24PM</p> <p>23 A Sometimes. 1:11:24PM</p> <p>24 Q Do they have to ask you first? 1:11:25PM</p> <p>25 A Yes. 1:11:27PM</p>
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<p>1 GEORGE HESSE</p> <p>2 Q And who created that letterhead? 1:10:00PM</p> <p>3 A I did. 1:10:02PM</p> <p>4 Q Did anyone approve it? 1:10:02PM</p> <p>5 A No. 1:10:04PM</p> <p>6 Q And you sent letters out on that 1:10:04PM</p> <p>7 letterhead outside of Ocean Beach?</p> <p>8 A Yes. 1:10:08PM</p> <p>9 Q And why is it changed now to police 1:10:09PM</p> <p>10 department as opposed to chief of police?</p> <p>11 A Well, I was advised by Mayor Loeffler 1:10:15PM</p> <p>12 that maybe I should take that off.</p> <p>13 Q Did he tell you why you should take 1:10:19PM</p> <p>14 that off?</p> <p>15 A Because I'm working out of class. 1:10:22PM</p> <p>16 Q When did he tell you that? 1:10:27PM</p> <p>17 A I don't recall. 1:10:28PM</p> <p>18 Q When did you change the letterhead? 1:10:29PM</p> <p>19 A I don't recall. 1:10:32PM</p> <p>20 Q Is there anything that would refresh 1:10:35PM</p> <p>21 your recollection? Do you have a date on your</p> <p>22 computer that you actually changed it?</p> <p>23 A No. 1:10:42PM</p> <p>24 Q Did you physically make the change? 1:10:43PM</p> <p>25 A Yes. 1:10:45PM</p>	<p>1 GEORGE HESSE</p> <p>2 Q Did you ever search that computer for 1:11:34PM</p> <p>3 documents that may be relevant to this</p> <p>4 litigation?</p> <p>5 MR. NOVIKOFF: Objection to the form. 1:11:43PM</p> <p>6 MR. CONNOLLY: Same objection. 1:11:44PM</p> <p>7 MR. NOVIKOFF: Are you asking him to 1:11:46PM</p> <p>8 form a legal conclusion as to what may be</p> <p>9 relevant?</p> <p>10 BY MR. GOODSTADT: 1:11:51PM</p> <p>11 Q Did you ever search the computer in 1:11:51PM</p> <p>12 connection with this case?</p> <p>13 A I may have. 1:11:55PM</p> <p>14 Q You don't recall one way or the other? 1:11:57PM</p> <p>15 A No. 1:11:59PM</p> <p>16 Q Do you know whether anybody searched 1:11:59PM</p> <p>17 your computer to see if there were documents</p> <p>18 that were relevant to this matter?</p> <p>19 A No. 1:12:04PM</p> <p>20 MR. NOVIKOFF: Objection. 1:12:05PM</p> <p>21 A No. 1:12:06PM</p> <p>22 Q Did anyone ever ask you to search your 1:12:07PM</p> <p>23 computer?</p> <p>24 MR. NOVIKOFF: In connection with this 1:12:10PM</p> <p>25 lawsuit?</p>

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1 GEORGE HESSE

2 MR. GOODSTADT: In connection with 1:12:13PM

3 this matter, yeah.

4 MR. NOVIKOFF: Sure. 1:12:15PM

5 A No. 1:12:16PM

6 Q Did you ever search your E-mail in 1:12:28PM

7 connection with this matter?

8 A I don't believe so. 1:12:34PM

9 Q Anyone ever ask you to search your 1:12:34PM

10 E-mail in connection with this matter?

11 A No. 1:12:38PM

12 MR. CONNOLLY: We're talking about his 1:12:39PM

13 work E-mail, correct?

14 BY MR. GOODSTADT: 1:12:41PM

15 Q Well, what's your work E-mail address? 1:12:42PM

16 A OBPD@villageofOceanBeach.org. 1:12:47PM

17 Q How long did you have that E-mail 1:12:53PM

18 address?

19 A You know, I don't know. I don't 1:12:56PM

20 recall.

21 Q Did you have an E-mail address for 1:13:00PM

22 work prior to OBPD@villageofOceanBeach.org?

23 A I had one that I used, yes. 1:13:10PM

24 Q What was that E-mail address? 1:13:10PM

25 A That was OBPD103@aol.com. 1:13:11PM

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1 GEORGE HESSE

2 Q And when did you have that E-mail 1:13:17PM

3 address? What was the file period?

4 A Probably from -- it's possible from 1:13:21PM

5 '95, when I got promoted. That's was shield

6 number, 103. Until the present.

7 Q Oh, so you still use that? 1:13:33PM

8 A Yes. 1:13:34PM

9 Q And you use the other one, too, 1:13:34PM

10 OBPD@villageofOceanBeach.org?

11 A Yes. 1:13:43PM

12 Q Did you search the OBPD103@aol 1:13:43PM

13 account --

14 A No. 1:13:45PM

15 Q -- in connection with this case? 1:13:45PM

16 A No. 1:13:47PM

17 Q Did you search the 1:13:47PM

18 OBPD@villageofOceanBeach.org E-mail in

19 connection with this matter?

20 A I don't believe so. 1:13:52PM

21 Q Do you know if anyone did? 1:13:52PM

22 A No, I don't know. 1:13:54PM

23 Q Do you use either of those 1:13:56PM

24 passwords from a home computer -- strike that.

25 Do you use either of those E-mail 1:14:00PM

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1 GEORGE HESSE

2 addresses from a home computer?

3 A Just the OBPD103. It's a personal 1:14:02PM

4 account.

5 Q Did you ever use any other personal 1:14:11PM

6 E-mail addresses?

7 A Sure. 1:14:15PM

8 Q Which ones? 1:14:15PM

9 A I have one that it's 1:14:17PM

10 BeachCop03@aol.com.

11 Q Any others? 1:14:28PM

12 A I have BeachCop03@yahoo.com. 1:14:30PM

13 Q Any others? 1:14:40PM

14 A Yeah. I had something for an 1:14:42PM

15 investigation. It's ILUVFI159@yahoo.com.

16 Q Does that stand for I love Fire 1:15:03PM

17 Island?

18 A Yes. 1:15:07PM

19 Q And what is the 159? 1:15:08PM

20 A I don't know. I just made up a 1:15:09PM

21 number.

22 Q Does anyone have a shield 159 at Ocean 1:15:11PM

23 Beach?

24 A No. 1:15:15PM

25 Q Any other E-mail addresses that you've 1:15:15PM

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1 GEORGE HESSE

2 used in the last 10 years, personal E-mail

3 addresses?

4 A I don't recall. 1:15:21PM

5 Q Did you search the BeachCop03@aol 1:15:21PM

6 E-mail address in connection with this case?

7 A No. 1:15:28PM

8 Q Did you search the 1:15:28PM

9 BeachCop03@yahoo.com in connection with this

10 matter?

11 A No. 1:15:34PM

12 Q Did you search the ILUVFI159@yahoo.com 1:15:34PM

13 E-mail address in connection with this matter?

14 A No. 1:15:43PM

15 Q Did anyone ask you to search those 1:15:43PM

16 three E-mail accounts?

17 A No. 1:15:47PM

18 MR. GOODSTADT: It's a good time to 1:16:01PM

19 take a break.

20 THE VIDEOGRAPHER: That is the end of 1:16:04PM

21 Tape No. 2. The time is now 1:16 p.m.

22 We are now off the record. 1:16:08PM

23 (Whereupon, a discussion was held off 1:16:09PM

24 the record.)

25 THE VIDEOGRAPHER: This is the start 2:04:42PM

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<p>1 GEORGE HESSE</p> <p>2 ever Tape No. 3.</p> <p>3 The time is now 2:06 p.m. We are now 2:05:50PM</p> <p>4 back on the record.</p> <p>5 BY MR. GOODSTADT: 2:05:54PM</p> <p>6 Q Mr. Hesse, prior to us breaking for 2:05:55PM</p> <p>7 lunch, we discussed a Sergeant Betenhouse.</p> <p>8 Do you remember that? 2:06:02PM</p> <p>9 A Betenhauser, yes. 2:06:04PM</p> <p>10 Q Betenhauser. 2:06:05PM</p> <p>11 And you indicated that he passed the 2:06:05PM</p> <p>12 sergeant's test; is that correct?</p> <p>13 A Yes. 2:06:10PM</p> <p>14 Q Did he pass the Suffolk County 2:06:10PM</p> <p>15 sergeant's test or New York City sergeant's</p> <p>16 test?</p> <p>17 MR. NOVIKOFF: Objection. 2:06:16PM</p> <p>18 A New York City. 2:06:16PM</p> <p>19 Q Do you know whether that satisfies the 2:06:17PM</p> <p>20 requirement to pass the test to be a sergeant in</p> <p>21 Suffolk County?</p> <p>22 MR. CALLAHAN: Objection to form. 2:06:21PM</p> <p>23 MR. NOVIKOFF: Objection. 2:06:22PM</p> <p>24 A I don't know. 2:06:23PM</p> <p>25 Q So you don't know one way or the 2:06:24PM</p>	<p>1 GEORGE HESSE</p> <p>2 MR. NOVIKOFF: Well, like I said, it's 2:07:14PM</p> <p>3 not my witness. I can't say anything.</p> <p>4 MR. CONNOLLY: In terms of the 2:07:18PM</p> <p>5 complaint?</p> <p>6 MR. GOODSTADT: In terms of the 2:07:21PM</p> <p>7 complaint.</p> <p>8 MR. CONNOLLY: On duty? 2:07:22PM</p> <p>9 MR. GOODSTADT: There are several 2:07:25PM</p> <p>10 allegations with respect to that, yes.</p> <p>11 MR. CONNOLLY: As to -- why don't you 2:07:29PM</p> <p>12 ask him the allegation, you know, as</p> <p>13 contained in the complaint.</p> <p>14 MR. GOODSTADT: Well, because I'm 2:07:38PM</p> <p>15 going to work my way to that. As</p> <p>16 Mr. Novikoff likes to do, set a foundation.</p> <p>17 Then I'll have an objection on foundation</p> <p>18 grounds now.</p> <p>19 MR. NOVIKOFF: Well, you could ask 2:07:51PM</p> <p>20 him -- well, first of all, I'm staying out</p> <p>21 of this.</p> <p>22 You're not my witness. I would never 2:07:55PM</p> <p>23 let you answer it, but it's not for me to</p> <p>24 make that decision.</p> <p>25 MR. CONNOLLY: Why don't we do it this 2:08:03PM</p>
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<p>1 GEORGE HESSE</p> <p>2 other?</p> <p>3 A No. 2:06:26PM</p> <p>4 Q I believe you testified that your 2:06:34PM</p> <p>5 wife's name is Sharon, did you say?</p> <p>6 A Shannon. 2:06:38PM</p> <p>7 Q I apologize for that. Shannon. 2:06:38PM</p> <p>8 How long have you been married? 2:06:40PM</p> <p>9 A A little over 13 years. 2:06:41PM</p> <p>10 Q Is she your first wife? 2:06:45PM</p> <p>11 A Yes. 2:06:46PM</p> <p>12 Q Have you ever cheated on her? 2:06:49PM</p> <p>13 MR. CONNOLLY: Objection. 2:06:52PM</p> <p>14 MR. NOVIKOFF: Whoa. Whoa. 2:06:53PM</p> <p>15 MR. GOODSTADT: It's part of the 2:06:56PM</p> <p>16 allegations in the case. You know it is.</p> <p>17 MR. NOVIKOFF: Well, just because you 2:06:58PM</p> <p>18 allege it in the case doesn't make it</p> <p>19 relevant. But he's not my witness, so I</p> <p>20 can't tell him not to answer or not.</p> <p>21 MR. CONNOLLY: Objection. Do you want 2:07:05PM</p> <p>22 to -- objection.</p> <p>23 MR. GOODSTADT: You can mark it as 2:07:08PM</p> <p>24 confidential, you can do what you want, but</p> <p>25 it's certainly relevant.</p>	<p>1 GEORGE HESSE</p> <p>2 way. I'm going to object. It's something</p> <p>3 we can bring up to the judge when we bring</p> <p>4 up other items. Why don't we continue.</p> <p>5 He's coming back. You'll have an</p> <p>6 opportunity.</p> <p>7 MR. NOVIKOFF: And we do have an 2:08:17PM</p> <p>8 appearance now on June 11th.</p> <p>9 MR. GOODSTADT: Right. I saw that. I 2:08:21PM</p> <p>10 saw that.</p> <p>11 So you're instructing him not to 2:08:23PM</p> <p>12 answer pending a --</p> <p>13 MR. CONNOLLY: Guidance from the 2:08:26PM</p> <p>14 court.</p> <p>15 MR. GOODSTADT: Guidance from the 2:08:28PM</p> <p>16 court?</p> <p>17 MR. CONNOLLY: I mean, we do have a 2:08:29PM</p> <p>18 lot of get through here.</p> <p>19 MR. GOODSTADT: I understand. I 2:08:38PM</p> <p>20 certainly understand that. I'm just trying</p> <p>21 to figure out if we want to get on the phone</p> <p>22 with the court right now. I think it's</p> <p>23 relevant to this whole next line of</p> <p>24 questioning.</p> <p>25 MR. CONNOLLY: And again, this next 2:08:47PM</p>

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<p>1 GEORGE HESSE</p> <p>2 line of questioning, I'm sure, is a portion</p> <p>3 of a much further line of questioning that</p> <p>4 we could segregate and address at a later</p> <p>5 time if need be.</p> <p>6 MR. GOODSTADT: Let me just ask him 2:09:01PM</p> <p>7 questions, and then we'll figure out if I</p> <p>8 need to get back to that question.</p> <p>9 MR. NOVIKOFF: Okay. Okay. 2:09:06PM</p> <p>10 BY MR. GOODSTADT: 2:09:13PM</p> <p>11 Q Mr. Hesse, have you ever posted on any 2:09:14PM</p> <p>12 social networking sites?</p> <p>13 A Yes. 2:09:19PM</p> <p>14 Q Okay. Which ones? 2:09:20PM</p> <p>15 A Adult Friend Finder. Ashley 2:09:23PM</p> <p>16 Madison.com. And I don't recall, there may have</p> <p>17 been others. You know what, there is one more.</p> <p>18 Loveinuniform.com.</p> <p>19 Q L-O-V-E-I-N-U-N-I-F-O-R-M? 2:09:53PM</p> <p>20 A Spell it again. 2:09:59PM</p> <p>21 Q L-O-V-E-I-N-U-N-I-F-O-R-M.com? 2:10:00PM</p> <p>22 A That sounds right. 2:10:06PM</p> <p>23 Q Any others? 2:10:07PM</p> <p>24 MR. CONNOLLY: Just note my continuing 2:10:08PM</p> <p>25 objection to this line of questioning.</p>	<p>1 GEORGE HESSE</p> <p>2 A I never posted anything that I recall 2:11:11PM</p> <p>3 other than joining the group.</p> <p>4 Q You don't recall posting any messages 2:11:18PM</p> <p>5 on that site?</p> <p>6 A I don't recall. 2:11:21PM</p> <p>7 Q Okay. How about any AOL social groups 2:11:21PM</p> <p>8 or networking groups?</p> <p>9 A I don't know if AOL has any social 2:11:30PM</p> <p>10 networking groups. It's a -- it's just a user</p> <p>11 site. They have chat rooms and stuff like that.</p> <p>12 Q What was the user name you used on 2:11:40PM</p> <p>13 Adult Friend Finder?</p> <p>14 A You know, I don't recall. 2:11:45PM</p> <p>15 Q What E-mail address did you use? 2:11:48PM</p> <p>16 A BeachCop03. 2:11:51PM</p> <p>17 MR. NOVIKOFF: BeachCop what? 2:11:55PM</p> <p>18 THE WITNESS: BeachCop03. 2:11:57PM</p> <p>19 BY MR. GOODSTADT: 2:11:59PM</p> <p>20 Q @aol.com? 2:11:59PM</p> <p>21 A Yes. 2:12:01PM</p> <p>22 Q What name did you use on 2:12:02PM</p> <p>23 AshleySabrina.com?</p> <p>24 A It wasn't Ashley Sabrina. 2:12:09PM</p> <p>25 Q Oh, it wasn't? Ashley Madison. I 2:12:12PM</p>
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<p>1 GEORGE HESSE</p> <p>2 MR. GOODSTADT: Sure. 2:10:11PM</p> <p>3 A Not that I recall. I don't know. 2:10:11PM</p> <p>4 Q Did you post on a site called -- I 2:10:13PM</p> <p>5 don't know how to pronounce it. It's spelled</p> <p>6 M-I-G-E-N-T-E.com?</p> <p>7 A What is it? 2:10:20PM</p> <p>8 Q Migente, M-I-G-E-N-T-E.com? 2:10:23PM</p> <p>9 A Yes, actually I did for a short period 2:10:26PM</p> <p>10 of time.</p> <p>11 Q How about on a website called 2:10:31PM</p> <p>12 Fubar.com, F-U-B-A-R?</p> <p>13 A Yes. 2:10:36PM</p> <p>14 Q How about on any Yahoo age-restricted 2:10:39PM</p> <p>15 groups?</p> <p>16 MR. CONNOLLY: Objection. 2:10:47PM</p> <p>17 MR. NOVIKOFF: Yeah, I don't know what 2:10:48PM</p> <p>18 that means.</p> <p>19 BY MR. GOODSTADT: 2:10:50PM</p> <p>20 Q A Solena_party Yahoo group, do you 2:10:50PM</p> <p>21 recall posting on that? S-O-L-E-N-A_party.</p> <p>22 A It's not a post. It's a group. 2:11:03PM</p> <p>23 Q Have you ever posted on that site? 2:11:05PM</p> <p>24 A No. 2:11:07PM</p> <p>25 Q Sure about that? 2:11:08PM</p>	<p>1 GEORGE HESSE</p> <p>2 apologize for that.</p> <p>3 What user name did you use on that? 2:12:19PM</p> <p>4 A It might be Copper103. 2:12:24PM</p> <p>5 Q C-O-P-P-E-R 103? 2:12:28PM</p> <p>6 A Yes. 2:12:30PM</p> <p>7 Q And what E-mail address did you use? 2:12:31PM</p> <p>8 A BeachCop103. 2:12:33PM</p> <p>9 Q What user name did you use on 2:12:36PM</p> <p>10 loveinuniform.com?</p> <p>11 A That is, I believe BeachCopp with two 2:12:43PM</p> <p>12 Ps at the end.</p> <p>13 Q What E-mail address did you use? 2:12:48PM</p> <p>14 A BeachCop03@aol.com. 2:12:50PM</p> <p>15 MR. CONNOLLY: Andrew, I'm going to 2:12:58PM</p> <p>16 cut this off at this point.</p> <p>17 MR. GOODSTADT: How come? 2:13:01PM</p> <p>18 MR. CONNOLLY: Where are you going 2:13:03PM</p> <p>19 with it? There are allegations contained in</p> <p>20 the complaint regarding chauffeuring my</p> <p>21 client around.</p> <p>22 MR. GOODSTADT: Yeah, to different 2:13:12PM</p> <p>23 sexual escapades, right. I'm setting a</p> <p>24 foundation that he's engaged in sexual</p> <p>25 escapades. It certainly leads a lot of</p>

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<p>1 GEORGE HESSE</p> <p>2 credibility toward the allegations, correct?</p> <p>3 You have to --</p> <p>4 MR. CONNOLLY: Why don't you ask him 2:13:28PM</p> <p>5 questions limited to the complaint; and if</p> <p>6 you need to, we'll bring this before the</p> <p>7 court.</p> <p>8 MR. GOODSTADT: Well, let me just go 2:13:36PM</p> <p>9 back.</p> <p>10 MR. NOVIKOFF: My only comment would 2:13:39PM</p> <p>11 be that to the extent it's even relevant,</p> <p>12 it's certainly not relevant after the date</p> <p>13 that these officers were either not rehired</p> <p>14 or fired, however we term that date to be.</p> <p>15 But like I said, that's my only comment.</p> <p>16 BY MR. GOODSTADT: 2:13:56PM</p> <p>17 Q Well, did you ever post on any of 2:13:57PM</p> <p>18 these social network sites from the police</p> <p>19 station computers?</p> <p>20 A I've checked E-mails. 2:14:03PM</p> <p>21 Q Did you ever post any pictures of 2:14:07PM</p> <p>22 yourself on these sites?</p> <p>23 A Yes. 2:14:10PM</p> <p>24 Q In uniform? 2:14:10PM</p> <p>25 A Yes. 2:14:11PM</p>	<p>1 GEORGE HESSE</p> <p>2 Q How many times? 2:15:24PM</p> <p>3 A Oh, I don't know. 2:15:26PM</p> <p>4 Q What years? 2:15:26PM</p> <p>5 A I don't know. 2:15:28PM</p> <p>6 Q Do you know when it started that you 2:15:29PM</p> <p>7 first started checking E-mails at the police</p> <p>8 station on any of these social network websites?</p> <p>9 A When it started, no. 2:15:36PM</p> <p>10 Q You don't recall what year? 2:15:38PM</p> <p>11 A No. 2:15:40PM</p> <p>12 Q Do you still check E-mails from any of 2:15:42PM</p> <p>13 these websites?</p> <p>14 A Yes. 2:15:45PM</p> <p>15 Q Which ones? 2:15:45PM</p> <p>16 A Ashley Madison and the loveinuniform 2:15:48PM</p> <p>17 and Fubar.</p> <p>18 MR. CONNOLLY: Objection to any 2:16:01PM</p> <p>19 questioning since April 2nd, 2006 in this</p> <p>20 regard.</p> <p>21 MR. GOODSTADT: The objection, I don't 2:16:08PM</p> <p>22 think it's a -- relevance is not a basis to</p> <p>23 instruct the witness not to answer, you</p> <p>24 know. We're more than willing to have your</p> <p>25 objection on the record. We can bring it up</p>
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<p>1 GEORGE HESSE</p> <p>2 Q In the Ocean Beach police uniform? 2:14:11PM</p> <p>3 A Yes. 2:14:13PM</p> <p>4 Q Did you notify anybody in the beach 2:14:20PM</p> <p>5 that you were posting pictures of yourself on</p> <p>6 these social websites in uniform?</p> <p>7 MR. NOVIKOFF: Note my objection to 2:14:27PM</p> <p>8 that question.</p> <p>9 MR. CONNOLLY: Objection also. 2:14:28PM</p> <p>10 A Did I -- I don't understand the 2:14:31PM</p> <p>11 question.</p> <p>12 Q Did you notify anyone at the beach, 2:14:32PM</p> <p>13 the mayor, the board, Chief Paradiso when he was</p> <p>14 there?</p> <p>15 A No. 2:14:38PM</p> <p>16 Q Do you know if there are any rules 2:14:41PM</p> <p>17 regarding pictures of yourself in a uniform</p> <p>18 anywhere or posing in a uniform for anything?</p> <p>19 A Are there rules? 2:14:52PM</p> <p>20 Q Are there any rules? 2:14:54PM</p> <p>21 A Not that I'm aware of. 2:14:55PM</p> <p>22 Q Did you ever send or respond to any 2:14:57PM</p> <p>23 E-mails that you checked from the Ocean Beach</p> <p>24 police computer?</p> <p>25 A Yes. 2:15:23PM</p>	<p>1 GEORGE HESSE</p> <p>2 to the court when we raise all these other</p> <p>3 issues.</p> <p>4 MR. CONNOLLY: It will be brought up 2:16:24PM</p> <p>5 to the court.</p> <p>6 MR. GOODSTADT: Right. Okay. 2:16:26PM</p> <p>7 Now I'll suspended the questioning on 2:16:53PM</p> <p>8 this. I just want to ask him what E-mail</p> <p>9 addresses he used, and then I'll suspend</p> <p>10 other questions on this pending our</p> <p>11 discussion with the court. I just want on</p> <p>12 the record what E-mail address were used, if</p> <p>13 that's all right with you.</p> <p>14 MR. CONNOLLY: Why don't we just refer 2:17:09PM</p> <p>15 the questions to the court and move on.</p> <p>16 We're coming back on the 16th. It's not</p> <p>17 your only shot at the apple.</p> <p>18 MR. GOODSTADT: I know. Why don't you 2:17:27PM</p> <p>19 just give me a minute off the record just to</p> <p>20 think about it and see how it plays into the</p> <p>21 next set of questions.</p> <p>22 THE VIDEOGRAPHER: The time is 2:17:39PM</p> <p>23 2:17 p.m. We are now off the record.</p> <p>24 (Whereupon, a discussion was held off 2:17:43PM</p> <p>25 the record.)</p>

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<p>1 GEORGE HESSE</p> <p>2 THE VIDEOGRAPHER: The time is now 2:28:13PM</p> <p>3 2:28 p.m. We are now back on the record.</p> <p>4 MR. GOODSTADT: Okay. Before we took 2:28:18PM</p> <p>5 that break, Mr. Connolly and I conferred off</p> <p>6 the record and decided that on this subject</p> <p>7 I was going to ask just a limited number of</p> <p>8 questions that we've agreed to, and it's</p> <p>9 going to be certain topics that will be</p> <p>10 subject to further discussion with the</p> <p>11 court.</p> <p>12 Is that acceptable, Mr. Connolly? 2:28:36PM</p> <p>13 MR. CONNOLLY: That's acceptable. 2:28:38PM</p> <p>14 BY MR. GOODSTADT: 2:28:39PM</p> <p>15 Q Now, Mr. Hesse, have you ever met any 2:28:39PM</p> <p>16 of the people that you've posted with or</p> <p>17 E-mailed with on any social network site in</p> <p>18 person?</p> <p>19 A Yes. 2:28:51PM</p> <p>20 MR. NOVIKOFF: Objection. 2:28:52PM</p> <p>21 MR. CONNOLLY: Continuing objection. 2:28:53PM</p> <p>22 BY MR. GOODSTADT: 2:28:54PM</p> <p>23 Q And did you ever meet with any of 2:28:55PM</p> <p>24 those people that you've E-mailed with or posted</p> <p>25 with on these social network sites on Fire</p>	<p>1 GEORGE HESSE</p> <p>2 privacy settings in Facebook in your posting?</p> <p>3 A Yes. 2:30:00PM</p> <p>4 Q What did you change your privacy 2:30:00PM</p> <p>5 settings to?</p> <p>6 A From public to private. 2:30:03PM</p> <p>7 Q And did you ever post on My Space? 2:30:14PM</p> <p>8 A Yes. 2:30:16PM</p> <p>9 Q Did you ever change your privacy 2:30:17PM</p> <p>10 settings on Myspace.com?</p> <p>11 A I don't know if they had a way that 2:30:23PM</p> <p>12 you can do that. I'm not sure.</p> <p>13 Q What did you do, if anything, to 2:30:42PM</p> <p>14 prepare for today's deposition?</p> <p>15 A I met with my attorney on Monday and 2:30:47PM</p> <p>16 Tuesday.</p> <p>17 Q When you say your attorney, who are 2:30:50PM</p> <p>18 you referring to?</p> <p>19 A Mr. Connolly. 2:30:57PM</p> <p>20 Q And where did you meet with him? 2:30:58PM</p> <p>21 A In Westchester, at his office. 2:31:00PM</p> <p>22 Q Who was present at the meeting? 2:31:03PM</p> <p>23 A Just he and I. 2:31:05PM</p> <p>24 Q How long did you meet with him? 2:31:08PM</p> <p>25 Without telling me anything that you said to him</p>
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<p>1 GEORGE HESSE</p> <p>2 Island?</p> <p>3 A No. 2:29:06PM</p> <p>4 Q So it was off of Fire Island? 2:29:14PM</p> <p>5 A Yes. 2:29:16PM</p> <p>6 MR. NOVIKOFF: Objection. 2:29:17PM</p> <p>7 MR. CONNOLLY: Objection. 2:29:18PM</p> <p>8 MR. NOVIKOFF: If it's not on. 2:29:20PM</p> <p>9 MR. GOODSTADT: I just want to make 2:29:21PM</p> <p>10 sure.</p> <p>11 BY MR. GOODSTADT: 2:29:24PM</p> <p>12 Q And the pictures that you posted on 2:29:27PM</p> <p>13 these sites, did you ever post them from the</p> <p>14 police station computer? I just want to know</p> <p>15 physically where you uploaded them from.</p> <p>16 MR. CONNOLLY: Objection. 2:29:37PM</p> <p>17 A I may have. 2:29:39PM</p> <p>18 Q Okay. 2:29:40PM</p> <p>19 MR. GOODSTADT: And again, the rest of 2:29:43PM</p> <p>20 the questions will just be subject to motion</p> <p>21 or discussion with the court.</p> <p>22 BY MR. GOODSTADT: 2:29:52PM</p> <p>23 Q Have you ever posted on Facebook? 2:29:53PM</p> <p>24 A Yes. Yes. 2:29:55PM</p> <p>25 Q Did you ever change any of your 2:29:55PM</p>	<p>1 GEORGE HESSE</p> <p>2 or he said to you, how long did you meet with</p> <p>3 him on each of those days?</p> <p>4 MR. CONNOLLY: Exclusive of lunch, 2:31:17PM</p> <p>5 breaks?</p> <p>6 MR. GOODSTADT: Yeah. Just meeting 2:31:21PM</p> <p>7 time. Either inclusive or exclusive.</p> <p>8 A On Monday, I arrived at 9:30, and at 2:31:26PM</p> <p>9 some point we took lunch, and I believe I left</p> <p>10 somewhere around 5:00.</p> <p>11 Q How about Tuesday? 2:31:36PM</p> <p>12 A Tuesday I arrived at 9:30, and I 2:31:37PM</p> <p>13 believe I left at 4:00.</p> <p>14 Q Were you on the clock at the beach at 2:31:48PM</p> <p>15 the time?</p> <p>16 A Yes. 2:31:50PM</p> <p>17 Q So you got paid for that -- those two 2:31:51PM</p> <p>18 days?</p> <p>19 A Yes. 2:31:53PM</p> <p>20 Q Are you on the clock today for the 2:31:54PM</p> <p>21 beach?</p> <p>22 A Yes. 2:31:56PM</p> <p>23 Q So you're getting paid for today as 2:31:56PM</p> <p>24 well?</p> <p>25 A Yes. 2:31:58PM</p>

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<p>1 GEORGE HESSE</p> <p>2 Q And again, don't tell me anything that 2:32:04PM</p> <p>3 you said to your attorney or your attorney said</p> <p>4 to you. But did you review any documents in</p> <p>5 preparation for today's deposition?</p> <p>6 A Yes. 2:32:13PM</p> <p>7 Q Did any of those documents refresh 2:32:14PM</p> <p>8 your recollection as to any of the facts or</p> <p>9 events that happened or that are alleged to have</p> <p>10 happened in this case?</p> <p>11 A No. 2:32:27PM</p> <p>12 Q Did you speak with -- well, strike 2:32:36PM</p> <p>13 that.</p> <p>14 Have you ever -- other than for today, 2:32:39PM</p> <p>15 sitting in this room, have you ever spoken to</p> <p>16 any lawyers from Rivkin Radler in connection</p> <p>17 with this matter?</p> <p>18 MR. NOVIKOFF: Objection. Asked and 2:32:48PM</p> <p>19 answered.</p> <p>20 A No. 2:32:49PM</p> <p>21 Q Did you speak with anybody -- any 2:32:52PM</p> <p>22 current or former Ocean Beach employees in</p> <p>23 preparation for today's deposition?</p> <p>24 A No. 2:33:00PM</p> <p>25 Q Did you tell anybody at the beach that 2:33:03PM</p>	<p>1 GEORGE HESSE</p> <p>2 A Separately. 2:34:19PM</p> <p>3 Q What did Bacon say when you told him 2:34:20PM</p> <p>4 you were coming in for the deposition?</p> <p>5 A Good luck. 2:34:25PM</p> <p>6 Q Did you discuss the substance of the 2:34:26PM</p> <p>7 claims at all with Bacon?</p> <p>8 A No. 2:34:29PM</p> <p>9 Q Did you ever discuss with Bacon 2:34:29PM</p> <p>10 anything about his deposition that was taken in</p> <p>11 this case?</p> <p>12 A Just the fact that he had come and was 2:34:=</p> <p>13 34PM</p> <p>14 deposited.</p> <p>15 Q Do you recall what he said about that? 2:34:37PM</p> <p>16 A No. 2:34:41PM</p> <p>17 Q So you don't recall anything 2:34:46PM</p> <p>18 substantive about what he said other than for</p> <p>19 the fact that he was deposited?</p> <p>20 A No substance. 2:34:52PM</p> <p>21 Q Did you ever review his transcript or 2:34:53PM</p> <p>22 any excerpts of his transcript from this</p> <p>23 deposition?</p> <p>24 A No. 2:34:59PM</p> <p>25 Q And when you told Pat Cherry that you 2:34:59PM</p> <p>were coming in today, what did he say in that</p>
Page 218	Page 220
<p>1 GEORGE HESSE</p> <p>2 you were coming today for the deposition?</p> <p>3 A Yes. 2:33:06PM</p> <p>4 Q Who did you tell? 2:33:07PM</p> <p>5 A Ty Bacon, John -- Pat Cherry, Pat 2:33:10PM</p> <p>6 Cherry, Jr., Joe Dediminico, Billy Bambrick,</p> <p>7 Hank Clemmons, Michael Mills, John Zois. It's</p> <p>8 possible a few other.</p> <p>9 Q Did you tell Joe Loeffler? 2:33:43PM</p> <p>10 A I told him I was scheduled for today, 2:33:47PM</p> <p>11 yes.</p> <p>12 Q Did you discuss anything else with him 2:33:55PM</p> <p>13 about this case in that conversation --</p> <p>14 A No. 2:33:59PM</p> <p>15 Q -- other than the fact that you were 2:33:59PM</p> <p>16 scheduled to come for a deposition?</p> <p>17 A No. 2:34:03PM</p> <p>18 Q How did you tell the other people, 2:34:04PM</p> <p>19 Bacon, Cherry, Cherry junior, Dediminico, et</p> <p>20 cetera? Did you tell them verbally or did you</p> <p>21 send out an E-mail or a letter or memo or some</p> <p>22 other way?</p> <p>23 A Verbal. 2:34:16PM</p> <p>24 Q Did you tell them all together or 2:34:16PM</p> <p>25 separately?</p>	<p>1 GEORGE HESSE</p> <p>2 conversation?</p> <p>3 A Good luck. 2:35:04PM</p> <p>4 Q Anything else? 2:35:05PM</p> <p>5 A No. 2:35:06PM</p> <p>6 Q Did you discuss the substance of the 2:35:06PM</p> <p>7 claims or allegations in this case with him?</p> <p>8 A No. 2:35:11PM</p> <p>9 Q Did you ever discuss with Pat Cherry 2:35:11PM</p> <p>10 anything about his deposition that was taken in</p> <p>11 this case?</p> <p>12 A No. 2:35:17PM</p> <p>13 Q Did he tell you that he was coming for 2:35:19PM</p> <p>14 a deposition?</p> <p>15 A Yes. 2:35:21PM</p> <p>16 Q Did you speak to him after his 2:35:22PM</p> <p>17 deposition?</p> <p>18 A Yes. 2:35:24PM</p> <p>19 Q About the deposition? 2:35:24PM</p> <p>20 A Yes. 2:35:25PM</p> <p>21 Q And what did he say about it? 2:35:25PM</p> <p>22 A He said it went all right. 2:35:27PM</p> <p>23 Q Anything else? 2:35:29PM</p> <p>24 A No. 2:35:29PM</p> <p>25 Q Did you discuss the substance at all, 2:35:30PM</p>

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<p>1 GEORGE HESSE</p> <p>2 any of the questions that were asked?</p> <p>3 A No. 2:35:34PM</p> <p>4 Q Did you ever review his transcript or 2:35:35PM</p> <p>5 any excerpts from his transcript from the</p> <p>6 deposition in this case?</p> <p>7 A Yes. 2:35:41PM</p> <p>8 Q When did you do that? 2:35:42PM</p> <p>9 A I don't know the exact date, but I had 2:35:44PM</p> <p>10 requested since I wasn't going to be present for</p> <p>11 the depositions, if Mr. Connolly could send me a</p> <p>12 copy so I could just look at them.</p> <p>13 Q Of just Cherry's or everybody's? 2:35:55PM</p> <p>14 A Of everybody's. 2:35:58PM</p> <p>15 Q So you reviewed everybody's deposition 2:35:59PM</p> <p>16 transcripts in this case?</p> <p>17 A No. 2:36:02PM</p> <p>18 Q Which ones have you reviewed? 2:36:03PM</p> <p>19 A I have read Mr. Snyder's. I've read 2:36:04PM</p> <p>20 Kevin Lamm's. I read Joe Nofi's. I read Eddie</p> <p>21 Carter's. I read Maryann Minerva's. I read I</p> <p>22 think the first half of Natalie Rogers. That</p> <p>23 may be it.</p> <p>24 Q Did you read Joe Loeffler's? 2:36:41PM</p> <p>25 A No. 2:36:44PM</p>	<p>1 GEORGE HESSE</p> <p>2 after the deposition --</p> <p>3 A Yes. 2:37:23PM</p> <p>4 Q -- as well? 2:37:23PM</p> <p>5 And when did you speak with her after 2:37:24PM</p> <p>6 her deposition?</p> <p>7 A Maybe a day or two after. 2:37:27PM</p> <p>8 Q And what did she say in that 2:37:29PM</p> <p>9 conversation?</p> <p>10 A Other than she had to go to the city, 2:37:34PM</p> <p>11 she had a headache and that she felt slightly</p> <p>12 intimidated by Mr. Fiorillo, that was it.</p> <p>13 Q Did she tell you anything 2:37:45PM</p> <p>14 substantively about her deposition?</p> <p>15 A No. 2:37:48PM</p> <p>16 Q How about Natalie Rogers, did you ever 2:37:52PM</p> <p>17 speak to her about her deposition?</p> <p>18 A No. 2:37:57PM</p> <p>19 Q Did you ever speak with Joe Loeffler 2:37:59PM</p> <p>20 about his deposition?</p> <p>21 A No, other than the fact that he came 2:38:03PM</p> <p>22 and took -- and gave his deposition.</p> <p>23 Q You didn't speak anything 2:38:07PM</p> <p>24 substantive -- you didn't speak anything with</p> <p>25 him about the substance of his deposition?</p>
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<p>1 GEORGE HESSE</p> <p>2 Q Did you read Allison Sanchez? 2:36:44PM</p> <p>3 A No. 2:36:46PM</p> <p>4 Q Did you speak with Minerva about her 2:36:47PM</p> <p>5 deposition?</p> <p>6 MR. NOVIKOFF: Before or after? 2:36:51PM</p> <p>7 MR. GOODSTADT: Either. 2:36:52PM</p> <p>8 MR. NOVIKOFF: Okay. 2:36:54PM</p> <p>9 MR. GOODSTADT: I'm trying to truncate 2:36:55PM</p> <p>10 some of the questions.</p> <p>11 A Yes. 2:36:57PM</p> <p>12 Q Before or after? 2:36:58PM</p> <p>13 A Before and after. 2:36:59PM</p> <p>14 Q What did you discuss with her before 2:36:59PM</p> <p>15 her deposition?</p> <p>16 A Just the fact that she was coming. 2:37:02PM</p> <p>17 Q Have you ever discussed -- before her 2:37:04PM</p> <p>18 deposition, did you ever discuss the substance</p> <p>19 of any of the allegations made in the complaint?</p> <p>20 A Just like I said previous, that it was 2:37:11PM</p> <p>21 baseless.</p> <p>22 Q But nothing specific about any of the 2:37:13PM</p> <p>23 specific allegations?</p> <p>24 A Nothing specific, no. 2:37:17PM</p> <p>25 Q Okay. And did you speak with her 2:37:18PM</p>	<p>1 GEORGE HESSE</p> <p>2 A No. 2:38:13PM</p> <p>3 Q Did you speak with -- strike that. 2:38:15PM</p> <p>4 Did you read the transcript of Gary 2:38:18PM</p> <p>5 Bosetti's deposition?</p> <p>6 A No. 2:38:21PM</p> <p>7 Q How about Richard Bosetti's 2:38:22PM</p> <p>8 deposition?</p> <p>9 A No. I haven't received them. 2:38:24PM</p> <p>10 Q Have you spoken with either of them 2:38:25PM</p> <p>11 about their depositions?</p> <p>12 A Just Gary, as far as him just coming 2:38:28PM</p> <p>13 to give his deposition. And Richie also. I'm</p> <p>14 sorry, yes.</p> <p>15 Q Before they took their depositions or 2:38:36PM</p> <p>16 after?</p> <p>17 A I believe they -- Gary had called me 2:38:38PM</p> <p>18 just to advise me that he was coming in and Gary</p> <p>19 himself called me again to tell me that Richie</p> <p>20 was going in, and then he called me to tell me</p> <p>21 that either he was done or his brother was done.</p> <p>22 Q Did he tell you anything substantively 2:38:53PM</p> <p>23 about their depositions?</p> <p>24 A No. 2:38:57PM</p> <p>25 Q Did you see the Bosettis in the 2:38:57PM</p>

<p style="text-align: right;">Page 225</p> <p>1 GEORGE HESSE</p> <p>2 hospital after Rich Bosetti was in a motorcycle</p> <p>3 accident?</p> <p>4 A Yes, I did. 2:39:04PM</p> <p>5 Q Did you discuss anything at all about 2:39:05PM</p> <p>6 this case with them at that time?</p> <p>7 A No. 2:39:09PM</p> <p>8 Q Did you discuss anything about their 2:39:10PM</p> <p>9 depositions with them at that time?</p> <p>10 A No. 2:39:12PM</p> <p>11 Q Did you ever read Allison Sanchez's 2:39:16PM</p> <p>12 transcript?</p> <p>13 A I don't believe I received hers 2:39:21PM</p> <p>14 either.</p> <p>15 Q Have you spoken with Ms. Sanchez at 2:39:22PM</p> <p>16 all about her deposition?</p> <p>17 A Very briefly, yes. 2:39:26PM</p> <p>18 Q When did you speak to her? 2:39:27PM</p> <p>19 A I ran into her in Riverhead court one 2:39:29PM</p> <p>20 day. I don't remember the specific day. And</p> <p>21 she just said that he had come to the</p> <p>22 deposition, and that was it. I introduced her</p> <p>23 to my wife, and we just chatted for a little</p> <p>24 bit.</p> <p>25 Q Did you tell her -- strike that. 2:39:43PM</p>	<p style="text-align: right;">Page 227</p> <p>1 GEORGE HESSE</p> <p>2 discussion?</p> <p>3 A How funny it was that somebody would 2:40:42PM</p> <p>4 make an allegation like that.</p> <p>5 Q Anything else that you discussed about 2:40:49PM</p> <p>6 that allegation?</p> <p>7 A Yeah. She said that she couldn't 2:40:56PM</p> <p>8 believe that the allegation was made by these</p> <p>9 individuals, especially since they were in her</p> <p>10 office and they saw pictures of her partner on</p> <p>11 the wall, that these guys must not be very good</p> <p>12 investigators.</p> <p>13 Q What do you mean by that, saw pictures 2:41:12PM</p> <p>14 of her on the wall?</p> <p>15 MR. NOVIKOFF: What does he mean by 2:41:18PM</p> <p>16 that?</p> <p>17 BY MR. GOODSTADT: 2:41:20PM</p> <p>18 Q Do you know what she meant by that? 2:41:20PM</p> <p>19 MR. CALLAHAN: Objection to form. 2:41:23PM</p> <p>20 A By the fact that they were in her 2:41:24PM</p> <p>21 office and she had pictures of her partner all</p> <p>22 over the place.</p> <p>23 Q And how did she reach the conclusion, 2:41:31PM</p> <p>24 if you know, that they weren't very good</p> <p>25 investigators?</p>
<p style="text-align: right;">Page 226</p> <p>1 GEORGE HESSE</p> <p>2 Did she tell you anything substantive 2:39:45PM</p> <p>3 about her deposition?</p> <p>4 A The only thing that she did mention 2:39:48PM</p> <p>5 was the part about sexual relations between me</p> <p>6 and her, and she said she threw up in her mouth</p> <p>7 and she laughed.</p> <p>8 MR. NOVIKOFF: She actually did throw 2:39:58PM</p> <p>9 up.</p> <p>10 A She thought it was a joke. 2:40:01PM</p> <p>11 Q Did she say anything else about her 2:40:05PM</p> <p>12 deposition?</p> <p>13 A No. Our conversation was actually 2:40:08PM</p> <p>14 pretty brief. She had a -- she's a parole</p> <p>15 officer now. So she had to move on and do her</p> <p>16 job, I guess. I don't know.</p> <p>17 Q After you received the complaint in 2:40:20PM</p> <p>18 this case, did you ever discuss the substantive</p> <p>19 allegations with Allison Sanchez?</p> <p>20 A I believe that we did discuss the 2:40:27PM</p> <p>21 allegation of us having a sexual relationship.</p> <p>22 That would be it.</p> <p>23 Q When did you have that discussion? 2:40:33PM</p> <p>24 A I don't recall. 2:40:34PM</p> <p>25 Q What was the substance of that 2:40:39PM</p>	<p style="text-align: right;">Page 228</p> <p>1 GEORGE HESSE</p> <p>2 MR. CALLAHAN: Objection to form. 2:41:42PM</p> <p>3 MR. NOVIKOFF: Yeah, I join in. 2:41:43PM</p> <p>4 A She flat out said that she didn't 2:41:44PM</p> <p>5 think they were smart cops.</p> <p>6 Q And her conclusion was based on the 2:41:48PM</p> <p>7 fact that --</p> <p>8 MR. CALLAHAN: Objection to form. 2:41:52PM</p> <p>9 MR. GOODSTADT: We're objecting now 2:41:54PM</p> <p>10 before questions are even asked?</p> <p>11 MR. CALLAHAN: I thought you were 2:42:11PM</p> <p>12 done.</p> <p>13 MR. GOODSTADT: No, I wasn't. 2:42:12PM</p> <p>14 MR. NOVIKOFF: Just note my objection 2:42:15PM</p> <p>15 to all the questions.</p> <p>16 MR. GOODSTADT: Welch can step in. 2:42:21PM</p> <p>17 BY MR. GOODSTADT: 2:42:28PM</p> <p>18 Q Do you know what her conclusion was 2:42:28PM</p> <p>19 based on?</p> <p>20 MR. CALLAHAN: Objection to form. 2:42:31PM</p> <p>21 MR. NOVIKOFF: I join. 2:42:33PM</p> <p>22 A I would say it was based on the fact 2:42:34PM</p> <p>23 that they made this allegation that I had sexual</p> <p>24 relations with her, when she was, in fact, a</p> <p>25 lesbian.</p>

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<p>1 GEORGE HESSE</p> <p>2 Q Does the fact that she's a lesbian 2:42:44PM</p> <p>3 preclude that allegation from being true?</p> <p>4 MR. CALLAHAN: Objection to form. 2:42:45PM</p> <p>5 MR. NOVIKOFF: Physically? 2:42:46PM</p> <p>6 MR. GOODSTADT: Yeah. 2:42:48PM</p> <p>7 MR. NOVIKOFF: I think the record 2:42:48PM</p> <p>8 could reflect that we can all stipulate that</p> <p>9 lesbians can have sex with men.</p> <p>10 MR. GOODSTADT: Okay. 2:42:55PM</p> <p>11 BY MR. GOODSTADT: 2:42:55PM</p> <p>12 Q You testified when you were a 2:43:00PM</p> <p>13 sergeant, that your tours were on Friday,</p> <p>14 Saturday nights; is that correct?</p> <p>15 A Correct. 2:43:09PM</p> <p>16 Q And you were the most senior officer 2:43:10PM</p> <p>17 on that tour?</p> <p>18 A Yes. 2:43:13PM</p> <p>19 Q Now, if an officer on your tour had a 2:43:16PM</p> <p>20 problem or a complaint in the chain of the</p> <p>21 command, would they come to you with that</p> <p>22 problem or complaint?</p> <p>23 A If they were working a tour with me 2:43:26PM</p> <p>24 they would probably come right to me first.</p> <p>25 Q That's the way the chain of command 2:43:31PM</p>	<p>1 GEORGE HESSE</p> <p>2 A Sometimes. 2:44:34PM</p> <p>3 Q Kevin Lamm? 2:44:35PM</p> <p>4 A Sometimes. 2:44:36PM</p> <p>5 Q How about Frank Fiorillo? 2:44:38PM</p> <p>6 A And sometimes, yeah. 2:44:39PM</p> <p>7 Q How about in '04, was Carter on your 2:44:42PM</p> <p>8 tour a lot?</p> <p>9 MR. NOVIKOFF: Objection. 2:44:46PM</p> <p>10 What do you mean by a lot? 2:44:48PM</p> <p>11 MR. GOODSTADT: Well, I think I asked 2:44:50PM</p> <p>12 if there was a set group of guys, and he</p> <p>13 said generally there were, but it</p> <p>14 fluctuated.</p> <p>15 BY MR. GOODSTADT: 2:44:56PM</p> <p>16 Q So would Carter be one of the general 2:44:56PM</p> <p>17 group of guys that were on your tour in '04?</p> <p>18 A Sometimes. 2:45:03PM</p> <p>19 Q How about Snyder? 2:45:03PM</p> <p>20 A Sometimes. 2:45:04PM</p> <p>21 Q Nofi? 2:45:05PM</p> <p>22 A Sometimes. 2:45:05PM</p> <p>23 Q Lamm? 2:45:06PM</p> <p>24 A Sometimes. 2:45:07PM</p> <p>25 Q Fiorillo? 2:45:08PM</p>
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<p>1 GEORGE HESSE</p> <p>2 works?</p> <p>3 A Sure. 2:43:33PM</p> <p>4 Q And did you ever hear Paradiso tell 2:43:37PM</p> <p>5 the officers in Ocean Beach or any officer in</p> <p>6 Ocean Beach that what happens on my tour, I'm</p> <p>7 handling; what happens on officer Hesse's tour</p> <p>8 he handles?</p> <p>9 A I never heard that. 2:43:51PM</p> <p>10 Q You never heard that. 2:43:53PM</p> <p>11 Was there a set -- let's go to 2003. 2:44:03PM</p> <p>12 Was there a set group of guys that were on your</p> <p>13 tour?</p> <p>14 A I would say yes, but it fluctuated 2:44:13PM</p> <p>15 from day to day.</p> <p>16 Q Who generally would be on your tour, 2:44:16PM</p> <p>17 the core group?</p> <p>18 A 2003, I'd have to look at the 2:44:19PM</p> <p>19 schedule. I don't know.</p> <p>20 Q Was Ed Carter on your tour a lot in 2:44:24PM</p> <p>21 '03?</p> <p>22 A Sometimes. 2:44:29PM</p> <p>23 Q How about Tom Snyder? 2:44:29PM</p> <p>24 A Sometimes. 2:44:31PM</p> <p>25 Q Joe Nofi? 2:44:33PM</p>	<p>1 GEORGE HESSE</p> <p>2 A Sometimes. 2:45:08PM</p> <p>3 Q How about in '03, would Gary Bosetti? 2:45:09PM</p> <p>4 A Very rarely, but sometimes, yeah. 2:45:12PM</p> <p>5 Q How about Rich Bosetti? 2:45:14PM</p> <p>6 A Same thing, sometimes. 2:45:16PM</p> <p>7 Q What tour did they generally work in 2:45:17PM</p> <p>8 '03?</p> <p>9 A They always worked -- they pretty much 2:45:21PM</p> <p>10 always worked 4 to 12s.</p> <p>11 Q And was your tour in '03 generally on 2:45:27PM</p> <p>12 Fridays and Saturdays?</p> <p>13 A Friday and Saturday, 9 at night until 2:45:31PM</p> <p>14 5 in the morning.</p> <p>15 Q So your tours would overlap -- 2:45:34PM</p> <p>16 A Sometimes. 2:45:34PM</p> <p>17 Q -- generally? 2:45:34PM</p> <p>18 What was Carter's tour generally in 2:45:35PM</p> <p>19 '03?</p> <p>20 A Most of the time, I believe he worked 2:45:38PM</p> <p>21 midnights from -- sorry. From midnight till</p> <p>22 eight in the morning.</p> <p>23 Q So, again, you'd overlap with him? 2:45:46PM</p> <p>24 A Sure. 2:45:48PM</p> <p>25 Q Snyder, do you know what his tour 2:45:49PM</p>

<p style="text-align: right;">Page 233</p> <p>1 GEORGE HESSE</p> <p>2 generally was in '03?</p> <p>3 A Generally it was midnights. 2:45:52PM</p> <p>4 Q How about Nofi? 2:45:53PM</p> <p>5 A Nofi fluctuated around a little bit. 2:45:56PM</p> <p>6 Sometimes it was nine at night till five in the</p> <p>7 morning. Sometimes it was four to 12.</p> <p>8 Sometimes it was midnights.</p> <p>9 Q So sometimes he had the same tour as 2:46:06PM</p> <p>10 you and sometimes he overlapped?</p> <p>11 A Sometimes. 2:46:12PM</p> <p>12 Q How about Lamm? 2:46:13PM</p> <p>13 A Lamm also worked a majority of 2:46:14PM</p> <p>14 midnights, midnight to eight in the morning.</p> <p>15 Sometimes he worked at nine at night till five</p> <p>16 in the morning.</p> <p>17 Q And Fiorillo? 2:46:23PM</p> <p>18 A Fiorillo worked some doubles, I 2:46:25PM</p> <p>19 believe. He did some maybe some 4 to 12s. He</p> <p>20 did some day tours. He did night tours. He was</p> <p>21 on the schedule quite often.</p> <p>22 MR. NOVIKOFF: And we're talking about 2:46:39PM</p> <p>23 in season now.</p> <p>24 MR. GOODSTADT: In season, yeah. 2:46:41PM</p> <p>25</p>	<p style="text-align: right;">Page 235</p> <p>1 GEORGE HESSE</p> <p>2 Q You never heard that that switch was 2:47:24PM</p> <p>3 done to discipline you?</p> <p>4 A Absolutely not. 2:47:28PM</p> <p>5 MR. NOVIKOFF: Andrew, I think -- your 2:47:39PM</p> <p>6 question was did he ever hear that switch --</p> <p>7 MR. GOODSTADT: Did anyone tell him. 2:47:42PM</p> <p>8 MR. NOVIKOFF: -- or was, in his 2:47:43PM</p> <p>9 opinion, the switch?</p> <p>10 MR. GOODSTADT: Well, did anyone ever 2:47:45PM</p> <p>11 tell him that the switch was due to</p> <p>12 discipline.</p> <p>13 MR. NOVIKOFF: And I think the witness 2:47:47PM</p> <p>14 answered my latter question as opposed to</p> <p>15 the first question.</p> <p>16 MR. GOODSTADT: Okay. 2:47:51PM</p> <p>17 BY MR. GOODSTADT: 2:47:52PM</p> <p>18 Q Did you ever hear -- did anyone ever 2:47:52PM</p> <p>19 tell you that the switch was done to discipline</p> <p>20 you as opposed to disciplining Paradiso?</p> <p>21 A No. 2:48:02PM</p> <p>22 Q Have you ever heard that allegation 2:48:03PM</p> <p>23 made?</p> <p>24 A No. 2:48:05PM</p> <p>25 Q And I assume that means that your 2:48:10PM</p>
<p style="text-align: right;">Page 234</p> <p>1 GEORGE HESSE</p> <p>2 BY MR. GOODSTADT: 2:46:42PM</p> <p>3 Q How about in '04, did that change at 2:46:43PM</p> <p>4 all?</p> <p>5 A No. 2:46:45PM</p> <p>6 Q Same thing with Gary and Rich Bosetti, 2:46:46PM</p> <p>7 generally they worked the 4-to-12 tour?</p> <p>8 A Yeah. 2:46:49PM</p> <p>9 Q How about '05, did that change at all? 2:46:49PM</p> <p>10 A No. 2:46:52PM</p> <p>11 Q In '03, '04 and '05, you generally did 2:46:52PM</p> <p>12 the 9 to 5?</p> <p>13 A On Fridays and Saturdays. 2:46:57PM</p> <p>14 Q Fridays and Saturdays? 2:46:59PM</p> <p>15 A Yes. 2:47:01PM</p> <p>16 Q When was the change? That was in '02? 2:47:02PM</p> <p>17 A Which change? 2:47:04PM</p> <p>18 Q I think you testified before that 2:47:06PM</p> <p>19 Paradiso was flipped to your tours, you were</p> <p>20 flipped to his tours due to some discipline of</p> <p>21 his?</p> <p>22 A Yeah, it might have been 2002. I'd 2:47:16PM</p> <p>23 have to go through the records and the schedules</p> <p>24 to see exactly what the dates were. I don't</p> <p>25 know.</p>	<p style="text-align: right;">Page 236</p> <p>1 GEORGE HESSE</p> <p>2 opinion was the reason that you testified</p> <p>3 before, that it was to discipline Paradiso,</p> <p>4 correct?</p> <p>5 A Correct. 2:48:15PM</p> <p>6 Q Now, let's go back to Allison Sanchez. 2:48:22PM</p> <p>7 She was also called Allison Chester at one</p> <p>8 point, right?</p> <p>9 A Yes. 2:48:27PM</p> <p>10 Q Okay. So when I say Allison Sanchez, 2:48:26PM</p> <p>11 I'm referring to the same person regardless of</p> <p>12 what her last name is; is that fair?</p> <p>13 A Understood. 2:48:31PM</p> <p>14 Q Did you generally deal with her over 2:48:32PM</p> <p>15 the phone, in person, E-mail, letters, or which</p> <p>16 way is it generally?</p> <p>17 MR. NOVIKOFF: Objection to form. 2:48:40PM</p> <p>18 MR. CALLAHAN: Objection to form. 2:48:42PM</p> <p>19 A On the phone. 2:48:44PM</p> <p>20 Q How many times did you interact with 2:48:46PM</p> <p>21 her in person?</p> <p>22 A Three, four times. 2:48:58PM</p> <p>23 Q Why don't we just start with the first 2:49:04PM</p> <p>24 time. Where was it?</p> <p>25 A At her office. 2:49:08PM</p>

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1 GEORGE HESSE

2 **Q Do you recall when that was, what 2:49:12PM**

3 **year?**

4 A It was probably in 2005. 2:49:16PM

5 **Q Had you ever met her prior to that 2:49:23PM**

6 **time?**

7 A No. 2:49:26PM

8 **Q Had you ever spoken to her prior to 2:49:27PM**

9 **that meeting in the office in '05?**

10 A I believe by then we had a 2:49:31PM

11 professional rapport on the phone.

12 **Q And had you ever seen her prior to 2:49:37PM**

13 **that? I know you may not have met her, but had**

14 **you ever seen her around or in passing?**

15 A No. 2:49:45PM

16 **Q So you didn't recognize her when you 2:49:45PM**

17 **first saw her in '05 in her office?**

18 MR. NOVIKOFF: Objection. 2:49:50PM

19 MR. GOODSTADT: Yeah, I shouldn't say 2:49:51PM

20 when you first saw her.

21 MR. NOVIKOFF: I mean, I would presume 2:49:54PM

22 that if he met her in her office, she has a

23 name plate saying Allison Sanchez.

24 MR. GOODSTADT: I'm talking about 2:49:59PM

25 recognizing the face.

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1 GEORGE HESSE

2 BY MR. GOODSTADT: 2:50:00PM

3 **Q Did you recognize the face when you 2:50:01PM**

4 **went into her office in 2005 as someone that you**

5 **may have seen around?**

6 A No. 2:50:06PM

7 **Q And what were you dealing with her 2:50:11PM**

8 **when you met in her office in '05?**

9 A I believe I had to go there to drop 2:50:14PM

10 off some paperwork, have some paperwork signed.

11 **Q With respect to what? 2:50:20PM**

12 A There are forms that have to be signed 2:50:21PM

13 by the -- I forget what the actual name of the

14 form is, but it's a form that gets sent to the

15 New York State registry for police officers.

16 The police officer signs it that's getting

17 hired. The supervisor of the police department

18 signs it. A representative from Civil Service

19 signs it. And I believe the oath of office,

20 which I believe at that time was Maryann Minerva

21 would have to sign that form.

22 **Q And you signed that form that you 2:50:52PM**

23 **dropped off?**

24 A Yes. 2:50:54PM

25 **Q Did you sign it as chief of police? 2:50:54PM**

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1 GEORGE HESSE

2 A At that time, no. 2:50:57PM

3 **Q Deputy chief of police? 2:50:57PM**

4 A No. 2:50:59PM

5 **Q Sergeant? 2:50:59PM**

6 A Sergeant. 2:51:00PM

7 **Q Why did you sign as opposed to 2:51:01PM**

8 **Paradiso?**

9 A Because he told me to take care of the 2:51:06PM

10 paperwork, so that's what I did.

11 **Q So at least as of 2005, Allison 2:51:13PM**

12 **Sanchez was on notice that you had the title**

13 **sergeant; is that correct?**

14 MR. CALLAHAN: Objection to form. 2:51:21PM

15 MR. NOVIKOFF: Objection. 2:51:22PM

16 MR. CONNOLLY: Objection. 2:51:23PM

17 A Am I aware if she was aware? 2:51:25PM

18 **Q You had the paperwork that you showed 2:51:27PM**

19 **her, correct?**

20 A Yeah. 2:51:29PM

21 **Q You had signed off as sergeant, 2:51:30PM**

22 **correct?**

23 A Correct. 2:51:32PM

24 **Q Had you sent any other paperwork to 2:51:32PM**

25 **her prior to that signing off as sergeant?**

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1 GEORGE HESSE

2 A I don't know if I sent anything 2:51:38PM

3 through the mail to her.

4 **Q Had you ever sent her any memos or 2:51:45PM**

5 **E-mails where you signed off as sergeant,**

6 **whether it's through the mail or not?**

7 A I may have. I don't recall. 2:51:53PM

8 **Q Did you ever send her any paperwork 2:51:55PM**

9 **that had you signed off as chief, whether it be**

10 **on the letterhead or your signature block?**

11 A I don't know. That might have been -- 2:52:03PM

12 I might have been appointed after she was gone.

13 I don't know.

14 **Q When was the second time you met with 2:52:09PM**

15 **her in person?**

16 A I believe she came to the village one 2:52:13PM

17 day.

18 **Q When was that? What year? 2:52:15PM**

19 A It might have been in 2005. 2:52:17PM

20 **Q And did she come to see you or did she 2:52:25PM**

21 **just happen to be there?**

22 MR. CALLAHAN: Objection to form. 2:52:29PM

23 A She did not come to see me, no. 2:52:30PM

24 **Q She just was visiting Ocean Beach? 2:52:32PM**

25 MR. CALLAHAN: Objection to form. 2:52:35PM

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1 GEORGE HESSE

2 A She was there on business. 2:52:36PM

3 Q On business? 2:52:37PM

4 A Yes. 2:52:38PM

5 Q And you met with her when she was 2:52:38PM

6 there on business?

7 A I ran into her. 2:52:42PM

8 Q Did you have any conversation with 2:52:43PM

9 her?

10 A Just there was probably -- I remember 2:52:44PM

11 there was a brief hello.

12 Q Do you recall the substance of that 2:52:48PM

13 conversation at all?

14 A Hello. 2:52:50PM

15 Q Other than for hello? 2:52:50PM

16 A No. 2:52:51PM

17 Q That was it? Where did you run into 2:52:52PM

18 her?

19 A In the village office. 2:52:54PM

20 Q Do you know what she was doing on the 2:52:57PM

21 beach, what business she was there for?

22 A I believe she was there for some other 2:53:02PM

23 Civil Service issues that required her

24 attention, and she was meeting with Mary Ann

25 Minerva.

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1 GEORGE HESSE

2 Q Do you know what the issues were? 2:53:14PM

3 A No. 2:53:15PM

4 Q So how did you know she was meeting 2:53:18PM

5 with Maryann Minerva to discuss Civil Service

6 issues?

7 A She was an employee of Civil Service, 2:53:25PM

8 she was there on business and Maryann Minerva is

9 the superintendent of the village.

10 Q Did you ask Maryann what the issues 2:53:31PM

11 were that she was there for?

12 A I don't recall. 2:53:31PM

13 Q Do you recall what month in '05 this 2:53:34PM

14 was?

15 A I don't. 2:53:36PM

16 Q Did you ask Sanchez what she was doing 2:53:37PM

17 there?

18 A I don't recall. 2:53:41PM

19 Q And sitting here today, you don't know 2:53:43PM

20 what they were discussing?

21 MR. NOVIKOFF: Objection. 2:53:47PM

22 A No. 2:53:47PM

23 Q What was the third time you dealt with 2:53:49PM

24 her face to face?

25 A I ran into her one day. 2:53:53PM

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1 GEORGE HESSE

2 Q Where was that? 2:53:56PM

3 A It was in Cherry Grove, Fire Island. 2:53:57PM

4 Q Was she there on business? 2:54:04PM

5 A No. 2:54:06PM

6 Q She was there for pleasure? 2:54:06PM

7 A Yes. 2:54:07PM

8 Q And did you speak with her at all when 2:54:08PM

9 you ran into her?

10 A Yes. 2:54:12PM

11 Q What was the substance of that 2:54:12PM

12 conversation?

13 A I don't recall. 2:54:16PM

14 Q When was the conversation? 2:54:17PM

15 A It was -- I don't have the exact date. 2:54:19PM

16 Q What year was it? 2:54:24PM

17 A It was in August of 2005, the first 2:54:27PM

18 Wednesday in August of 2005.

19 Q And what was the substance of the 2:54:51PM

20 conversation you had with her?

21 A It was purely social. 2:54:54PM

22 Q Do you recall what you discussed? 2:54:56PM

23 A No. 2:54:57PM

24 Q Do you recall anything you discussed? 2:54:58PM

25 A No. 2:54:59PM

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1 GEORGE HESSE

2 Q How long was the conversation? 2:54:59PM

3 A Half hour, 45 minutes. 2:55:04PM

4 Q Where was it? I know it was in Cherry 2:55:10PM

5 Grove, but where in Cherry Grove?

6 A It was at a bar, Ice Palace. 2:55:14PM

7 Q Were you on duty? 2:55:24PM

8 A No. 2:55:25PM

9 Q Did you have any alcoholic beverages 2:55:30PM

10 while you were there?

11 A Yes. 2:55:33PM

12 Q How many? 2:55:34PM

13 A I don't know. Four. 2:55:36PM

14 Q Did she have any alcoholic beverages? 2:55:38PM

15 A Yes. 2:55:40PM

16 Q How many? 2:55:40PM

17 A I don't know. 2:55:41PM

18 Q More than one? 2:55:43PM

19 A It's possible. 2:55:46PM

20 Q More than two? 2:55:47PM

21 A It's possible. 2:55:48PM

22 Q More than three? 2:55:48PM

23 A It's possible. 2:55:49PM

24 Q More than four? 2:55:50PM

25 A Maybe. 2:55:52PM

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<p>1 GEORGE HESSE</p> <p>2 Q You don't know? 2:55:53PM</p> <p>3 A I don't know. 2:55:54PM</p> <p>4 Q Were you with anyone else? 2:55:56PM</p> <p>5 A Yes. 2:55:58PM</p> <p>6 MR. CALLAHAN: Objection to form. 2:56:00PM</p> <p>7 BY MR. GOODSTADT: 2:56:00PM</p> <p>8 Q Who were you with? 2:56:01PM</p> <p>9 A I was with Walter Muller. I was with 2:56:02PM</p> <p>10 a Carl Muller. I don't know if anybody else</p> <p>11 came with us. I think that was it.</p> <p>12 Q Is Carl Muller and Walter Muller 2:56:16PM</p> <p>13 related?</p> <p>14 A No. 2:56:20PM</p> <p>15 Q And was she with anybody else? 2:56:21PM</p> <p>16 A Yes. 2:56:23PM</p> <p>17 Q Who was she with? 2:56:23PM</p> <p>18 A Her partner. 2:56:24PM</p> <p>19 Q Anyone else? 2:56:28PM</p> <p>20 A Not that I know of. 2:56:29PM</p> <p>21 Q Did you eat any food while you were 2:56:30PM</p> <p>22 there?</p> <p>23 A Yes. 2:56:33PM</p> <p>24 Q And what was it, a meal? 2:56:34PM</p> <p>25 A Lunch. 2:56:37PM</p>	<p>1 GEORGE HESSE</p> <p>2 A Yes. 2:57:59PM</p> <p>3 Q -- or anything about the plaintiffs? 2:57:59PM</p> <p>4 When was the first time you discussed 2:58:01PM</p> <p>5 anything about the plaintiffs with Allison</p> <p>6 Sanchez?</p> <p>7 A March of 2006. 2:58:10PM</p> <p>8 Q Was it in person or on the phone? 2:58:19PM</p> <p>9 A Phone. 2:58:22PM</p> <p>10 Q Do you recall when in March? 2:58:22PM</p> <p>11 A No. 2:58:24PM</p> <p>12 Q Did you call her or did she call you? 2:58:24PM</p> <p>13 A Called her. 2:58:27PM</p> <p>14 Q Just to discuss the plaintiffs or to 2:58:29PM</p> <p>15 discuss other things as well?</p> <p>16 MR. CALLAHAN: Objection to form. 2:58:34PM</p> <p>17 A I don't recall. 2:58:35PM</p> <p>18 Q And tell me everything you recall from 2:58:37PM</p> <p>19 that phone conversation with respect to the</p> <p>20 plaintiffs.</p> <p>21 A I called her to ask advice in 2:58:41PM</p> <p>22 reference to -- regarding employment with some</p> <p>23 of the part-time seasonal officers, what their</p> <p>24 rights were, what my rights -- what the</p> <p>25 department's rights were and what the village's</p>
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<p>1 GEORGE HESSE</p> <p>2 Q Lunch. Who paid for that meal? 2:56:38PM</p> <p>3 A I believe the three gentlemen, all of 2:56:41PM</p> <p>4 us together, we split it.</p> <p>5 Q So Allison Sanchez and her partner 2:56:48PM</p> <p>6 didn't pay anything?</p> <p>7 A She didn't have lunch with us. 2:56:52PM</p> <p>8 Q They didn't eat with you? 2:56:55PM</p> <p>9 A No. 2:56:57PM</p> <p>10 Q And when was the fourth time that you 2:56:57PM</p> <p>11 had a face-to-face interaction with her?</p> <p>12 A I believe I had to get some more 2:57:02PM</p> <p>13 papers signed at her office, and we went to</p> <p>14 lunch.</p> <p>15 Q When was that? 2:57:18PM</p> <p>16 A It was probably later in 2005. I 2:57:19PM</p> <p>17 don't know the exact date.</p> <p>18 Q How long did that interaction last? 2:57:25PM</p> <p>19 A Hour and a half. 2:57:27PM</p> <p>20 Q What paperwork were you bringing? 2:57:32PM</p> <p>21 A More of those forms I stated earlier. 2:57:34PM</p> <p>22 Q Was anyone else there? 2:57:50PM</p> <p>23 A No. 2:57:51PM</p> <p>24 Q Have you ever discussed any of the 2:57:54PM</p> <p>25 plaintiffs with Allison Sanchez --</p>	<p>1 GEORGE HESSE</p> <p>2 rights were if I were to decide to let someone</p> <p>3 go.</p> <p>4 Q Did you tell her who you were deciding 2:59:05PM</p> <p>5 to let go?</p> <p>6 A No. 2:59:08PM</p> <p>7 Q What did she tell you? 2:59:09PM</p> <p>8 A She said that she would find out. She 2:59:10PM</p> <p>9 would ask her boss, and she'd get back to me.</p> <p>10 Q Did you discuss anything else with her 2:59:20PM</p> <p>11 on that call about the plaintiffs?</p> <p>12 A No. 2:59:24PM</p> <p>13 Q How long did that call last? 2:59:27PM</p> <p>14 A I don't recall. 2:59:29PM</p> <p>15 Q Did you discuss anything else other 2:59:30PM</p> <p>16 than what you testified to with her on that</p> <p>17 call?</p> <p>18 A I don't recall. 2:59:34PM</p> <p>19 Q Did she ever get back to you? 2:59:34PM</p> <p>20 A Yes. 2:59:36PM</p> <p>21 Q She called you? 2:59:37PM</p> <p>22 A Yes. 2:59:38PM</p> <p>23 Q And when was that? How long after the 2:59:38PM</p> <p>24 first call?</p> <p>25 A I don't recall. 2:59:44PM</p>

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1 GEORGE HESSE

2 **Q And what did she tell you? 2:59:44PM**

3 A She -- I believe she said she spoke to 2:59:47PM

4 Stan Pelk, but she explained to me that

5 part-time and seasonal employees, employees,

6 police officers are at-will employees and that

7 we could release them at any time without cause.

8 **Q Did she tell you what she was relying 3:00:12PM**

9 **on?**

10 A Just from what she was told by her 3:00:15PM

11 boss.

12 **Q Did she cite to you any provisions of 3:00:17PM**

13 **the Civil Service law that provided that?**

14 A No. 3:00:22PM

15 **Q Did you discuss anything else with her 3:00:24PM**

16 **on that call?**

17 A I don't recall. 3:00:27PM

18 **Q Did you discuss that issue about what 3:00:32PM**

19 **your rights were with anyone other than for**

20 **Allison Sanchez in March 2006?**

21 A As far as the rights, no. 3:00:40PM

22 **Q So I guess that covers the first two 3:00:44PM**

23 **times you spoke to her about the plaintiffs.**

24 **Did you speak with her about the 3:00:48PM**

25 **plaintiffs at any time subsequent to that?**

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1 GEORGE HESSE

2 A Yes. 3:00:52PM

3 **Q When? 3:00:53PM**

4 A I believe it was April 4th or 5th. 3:00:56PM

5 I'm not exactly sure on the date. She had

6 called me to say specifically that Frank

7 Fiorillo and, I believe it was Joe Nofi and

8 Kevin Lamm had come to her office to file a

9 complaint against the Village of Ocean Beach and

10 me for, you know, terminating them, and I

11 believe they wanted to know what their rights

12 were.

13 **Q Did she tell you what they're alleging 3:01:28PM**

14 **or the underlying allegation of the complaint?**

15 A Basically she told me that they wanted 3:01:38PM

16 to know what their rights were as police

17 officers and did I have a right to do what I

18 did; and I believe when she told them that they

19 didn't have any rights, I think Frank might have

20 gotten a little ornery with her, and he started

21 spouting off other stuff about, you know,

22 uncertified, unqualified police officers working

23 in Ocean Beach. And I believe she told him,

24 don't worry about what they're doing, you don't

25 have a leg to stand on.

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1 GEORGE HESSE

2 **Q She told you that she said that? 3:02:21PM**

3 A Yes. 3:02:22PM

4 **Q And it was your understanding that she 3:02:32PM**

5 **was referring to -- when she said you don't have**

6 **a leg to stand on, it was your understanding**

7 **that she was referring to what his rights were?**

8 MR. CALLAHAN: Objection to form. 3:02:41PM

9 MR. NOVIKOFF: Yeah, objection. 3:02:42PM

10 MR. CONNOLLY: Objection. 3:02:43PM

11 A Yeah, that's what I believe. 3:02:43PM

12 **Q That was your understanding? 3:02:44PM**

13 A Yeah. 3:02:46PM

14 **Q Did she tell you anything else about 3:02:46PM**

15 **that conversation?**

16 A I don't recall. 3:02:49PM

17 **Q What did you say to her during that 3:02:51PM**

18 **conversation?**

19 A I don't recall, other than -- that's 3:03:00PM

20 it. I don't recall anything else.

21 **Q Were you in the -- were you in the 3:03:09PM**

22 **police station during this call?**

23 A I believe so. 3:03:12PM

24 **Q Was anyone else on the line at your 3:03:18PM**

25 **end?**

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1 GEORGE HESSE

2 A No, not that I'm aware of. 3:03:22PM

3 **Q Did you tell anybody, any current or 3:03:24PM**

4 **former employees of Ocean Beach, about Snyder,**

5 **Lamm -- strike that.**

6 **About Nofi, Lamm and Fiorillo's 3:03:31PM**

7 **decision to go file a complaint against you and**

8 **the beach?**

9 A Subsequent to that? 3:03:40PM

10 **Q Yeah. 3:03:41PM**

11 A You know, I don't recall. 3:03:42PM

12 **Q Did you ever discuss that with Joe 3:03:44PM**

13 **Loeffler, the fact that Sanchez alerted you to**

14 **their decision to come file a complaint against**

15 **you and the beach?**

16 MR. CALLAHAN: Objection to form. 3:03:55PM

17 A I don't recall. 3:03:56PM

18 **Q Is there anything that would refresh 3:03:57PM**

19 **your recollection as to whether you did or not?**

20 A Unless you have something, no. 3:04:01PM

21 **Q When was the next time you spoke with 3:04:06PM**

22 **Allison Sanchez about the plaintiffs, about any**

23 **of the plaintiffs?**

24 **Again, when I say "speak," I mean 3:04:18PM**

25 **communicate with her, whether it's verbally, in**

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1 **GEORGE HESSE**

2 **writing.**

3 A Uh-huh. 3:04:26PM

4 I don't recall. I mean, I know I've 3:04:29PM

5 spoken to her after that. I just don't know in

6 regards to what.

7 **Q Do you recall the substance of any of 3:04:35PM**

8 **those conversations?**

9 A I think later on, when there was an 3:04:41PM

10 allegation made that I was having sexual

11 relations with her, that we talked about that a

12 little bit, and I think she laughed at the fact

13 that somebody would make that allegation.

14 **Q Well, did you ever tell Ed Carter that 3:04:59PM**

15 **you took her out to lunch?**

16 A Not that I recall. 3:05:03PM

17 **Q Did you ever tell Ed Carter that you 3:05:04PM**

18 **slept with her?**

19 A Definitely not. 3:05:07PM

20 **Q Did you tell Joe Nofi that you banged 3:05:08PM**

21 **her?**

22 A Definitely not. 3:05:11PM

23 **Q Did you ever see her other than for 3:05:12PM**

24 **the -- well, strike that.**

25 **Have you ever seen her in Ocean Beach 3:05:17PM**

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1 **GEORGE HESSE**

2 **other than for the one time that she was meeting**

3 **with Minerva?**

4 A No. 3:05:22PM

5 MR. CALLAHAN: I'm going to object to 3:05:29PM

6 the form. You have testimony that's not

7 supported -- your question is not supported

8 by the testimony.

9 MR. GOODSTADT: Okay. I'm not sure 3:05:43PM

10 what that means, but okay.

11 BY MR. GOODSTADT: 3:05:47PM

12 **Q Now, we touched upon before an issue 3:05:47PM**

13 **about uncertified police officers working at the**

14 **beach.**

15 **Do you recall that? 3:05:56PM**

16 A Yes. 3:05:57PM

17 **Q Now, were there officers working at 3:06:02PM**

18 **the beach that hadn't passed the battery of**

19 **tests that you and I discussed early this**

20 **morning?**

21 A Yes. 3:06:09PM

22 **Q And who was that? Who are those 3:06:10PM**

23 **officers?**

24 A There was a Bill Walsh, Gary and 3:06:13PM

25 Richie Bosetti, Tommy Shaw, John Dyer, Pat

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1 **GEORGE HESSE**

2 Cherry. That officer, I can't think of his

3 name. There may be some others.

4 **Q You said John Dyer? 3:06:47PM**

5 A Uh-huh. 3:06:49PM

6 **Q Arnie Hardman? 3:06:57PM**

7 A Yes, Arnie Hardman. And there was 3:06:58PM

8 another one.

9 **Q John Bullis? 3:07:11PM**

10 A Yes. 3:07:15PM

11 **Q Is that who you were thinking of? 3:07:16PM**

12 A No. 3:07:19PM

13 **Q Daniel Shook? 3:07:24PM**

14 A That's him, Daniel Shook. 3:07:26PM

15 **Q And is it your understanding that if 3:07:38PM**

16 **you don't pass those battery of tests, that you**

17 **can't be a police officer in Suffolk County?**

18 MR. NOVIKOFF: Objection. 3:07:44PM

19 A Correct. 3:07:45PM

20 **Q So if you don't pass those tests, 3:07:46PM**

21 **you're a civilian, correct?**

22 MR. NOVIKOFF: Objection. I don't 3:07:50PM

23 know what you mean by "civilian."

24 MR. CONNOLLY: Objection. 3:07:52PM

25 MR. CALLAHAN: Objection. 3:07:53PM

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1 **GEORGE HESSE**

2 BY MR. GOODSTADT: 3:07:54PM

3 **Q Do you know what I mean when I say 3:07:54PM**

4 **"civilian"? You've heard that word?**

5 A Yes. 3:07:57PM

6 **Q Do you know what I mean? 3:07:58PM**

7 A Yeah, I know what you mean. 3:08:00PM

8 **Q So I'll reask the question. 3:08:02PM**

9 **Is it your understanding that if you 3:08:03PM**

10 **don't pass those tests, then you are a civilian?**

11 MR. NOVIKOFF: Objection. 3:08:09PM

12 MR. CALLAHAN: Objection to form. 3:08:11PM

13 A It's a technicality, but yes. 3:08:13PM

14 **Q So those list of people we just went 3:08:17PM**

15 **over, during the time period that they were**

16 **working and being paid as police officers in**

17 **Ocean Beach, they were actually civilians,**

18 **correct?**

19 MR. NOVIKOFF: Objection. 3:08:29PM

20 MR. CALLAHAN: Objection to form. 3:08:30PM

21 MR. CONNOLLY: Objection. 3:08:31PM

22 A No. 3:08:31PM

23 **Q They weren't civilians? 3:08:32PM**

24 A No. 3:08:33PM

25 **Q So which ones weren't civilians? 3:08:33PM**

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<p>1 GEORGE HESSE</p> <p>2 A All of them were sworn in as police 3:08:37PM</p> <p>3 officers.</p> <p>4 Q So it's your understanding that if 3:08:39PM</p> <p>5 you're sworn in, that you're certified to be a</p> <p>6 police officer?</p> <p>7 MR. NOVIKOFF: Objection. It's not 3:08:45PM</p> <p>8 his testimony.</p> <p>9 MR. CALLAHAN: Objection. 3:08:49PM</p> <p>10 MR. CONNOLLY: Objection. 3:08:51PM</p> <p>11 BY MR. GOODSTADT: 3:08:51PM</p> <p>12 Q Is that your understanding? 3:08:51PM</p> <p>13 A They were all retired police officers. 3:08:53PM</p> <p>14 Q Any of them retired from Suffolk 3:08:57PM</p> <p>15 County police department?</p> <p>16 A None of them, no. 3:08:59PM</p> <p>17 Q So in terms of being in Suffolk 3:09:02PM</p> <p>18 County, were they all civilians?</p> <p>19 MR. NOVIKOFF: Objection. Asked and 3:09:07PM</p> <p>20 answered.</p> <p>21 A It's a technicality, but, you know, 3:09:09PM</p> <p>22 I'll agree with you, yes.</p> <p>23 Q Yes, they were? 3:09:13PM</p> <p>24 When did you first learn of an issue 3:09:15PM</p> <p>25 with respect to this group of guys' lack of</p>	<p>1 GEORGE HESSE</p> <p>2 know if that was your question. But if you</p> <p>3 had asked the question already, then it's in</p> <p>4 the record. So why are we fighting with</p> <p>5 him?</p> <p>6 MR. GOODSTADT: I just want to make 3:10:41PM</p> <p>7 sure that I understood his testimony.</p> <p>8 MR. NOVIKOFF: Well, ask him again. 3:10:45PM</p> <p>9 I'll object, but he'll still answer.</p> <p>10 BY MR. GOODSTADT: 3:10:48PM</p> <p>11 Q Is the way I characterized it your 3:10:49PM</p> <p>12 understanding?</p> <p>13 MR. NOVIKOFF: Objection. 3:10:52PM</p> <p>14 A I understand where you're coming from. 3:10:53PM</p> <p>15 But I believe it's the Village of Ocean Beach,</p> <p>16 Maryann Minerva who fills out the Civil Service</p> <p>17 paperwork to make sure that it's accurate.</p> <p>18 Q Okay. So it's your understanding that 3:11:07PM</p> <p>19 Miss Minerva was the person responsible for</p> <p>20 making sure that the people who are hired and</p> <p>21 paid as police officers were certified to be in</p> <p>22 that position?</p> <p>23 MR. NOVIKOFF: Objection to the form, 3:11:18PM</p> <p>24 more particularly to the word "responsible."</p> <p>25 You're assuming that anyone was responsible</p>
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<p>1 GEORGE HESSE</p> <p>2 certification?</p> <p>3 A I don't recall a specific date. 3:09:27PM</p> <p>4 Q Do you recall what year it was? 3:09:30PM</p> <p>5 A It was probably the end of 2004, 3:09:34PM</p> <p>6 maybe.</p> <p>7 Q How did you learn about it? 3:09:44PM</p> <p>8 A I don't remember. 3:09:47PM</p> <p>9 Q So when you heard about it at the end 3:09:54PM</p> <p>10 of 2004 -- I believe I asked this question a</p> <p>11 while ago; I'll just put it in a time frame --</p> <p>12 ed Paradiso was the person in Ocean Beach</p> <p>13 responsible for making sure that everybody that</p> <p>14 was being paid as a police officer was</p> <p>15 certified?</p> <p>16 MR. NOVIKOFF: Objection. 3:10:11PM</p> <p>17 A You know, I don't know if it was 3:10:13PM</p> <p>18 really his job to make sure, but he was sure in</p> <p>19 charge of hiring.</p> <p>20 Q But when before I asked you who was in 3:10:21PM</p> <p>21 charge for making sure that the people who are</p> <p>22 hired are certified, you said up until January</p> <p>23 of '06, it was Paradiso, and after that it was</p> <p>24 you.</p> <p>25 MR. NOVIKOFF: Objection. I don't 3:10:34PM</p>	<p>1 GEORGE HESSE</p> <p>2 in that period of time.</p> <p>3 MR. CONNOLLY: Objection. 3:11:30PM</p> <p>4 You can answer. 3:11:30PM</p> <p>5 A You're going to have to repeat the 3:11:31PM</p> <p>6 question. I'm sorry.</p> <p>7 MR. GOODSTADT: Yeah, why don't you 3:11:38PM</p> <p>8 read it back. That would be great.</p> <p>9 (Whereupon, the requested portion was 3:11:41PM</p> <p>10 read back by the court reporter: Okay. So</p> <p>11 it's your understanding that Miss Minerva</p> <p>12 was the person responsible for making sure</p> <p>13 that the people who are hired and paid as</p> <p>14 police officers were certified to be in that</p> <p>15 position?)</p> <p>16 MR. NOVIKOFF: Can we take a five 3:11:59PM</p> <p>17 minute break?</p> <p>18 MR. GOODSTADT: So you objected to a 3:12:06PM</p> <p>19 word that wasn't even in the question.</p> <p>20 MR. CONNOLLY: I thought he said 3:12:06PM</p> <p>21 "responsible."</p> <p>22 MR. GOODSTADT: Responsible for making 3:12:06PM</p> <p>23 sure.</p> <p>24 MR. NOVIKOFF: I have a problem with 3:12:09PM</p> <p>25 the word "responsible" only because we</p>

<p style="text-align: right;">Page 261</p> <p>1 GEORGE HESSE</p> <p>2 haven't established that anyone was</p> <p>3 responsible, because clearly there was a</p> <p>4 problem.</p> <p>5 But note my objection. You can -- 3:12:16PM</p> <p>6 A That is my belief. 3:12:19PM</p> <p>7 Q What's the basis of that belief? 3:12:21PM</p> <p>8 A Because all applications and paperwork 3:12:23PM</p> <p>9 is submitted to her for her approval; and</p> <p>10 because it's a municipality, they have to report</p> <p>11 to Civil Service and they have to report those</p> <p>12 names to Civil Service.</p> <p>13 Q Does the chief of police have any 3:12:36PM</p> <p>14 obligation with respect to that reporting</p> <p>15 requirement?</p> <p>16 MR. NOVIKOFF: Objection. 3:12:42PM</p> <p>17 A I believe he has some responsibility. 3:12:43PM</p> <p>18 Q What is that responsibility? 3:12:46PM</p> <p>19 A To make sure that these men, these 3:12:48PM</p> <p>20 officers are certified.</p> <p>21 MR. NOVIKOFF: Could we take that 3:12:54PM</p> <p>22 break?</p> <p>23 MR. GOODSTADT: Yep. 3:12:56PM</p> <p>24 THE VIDEOGRAPHER: The time is now 3:12:57PM</p> <p>25 3:13 p.m. We are now off the record.</p>	<p style="text-align: right;">Page 263</p> <p>1 GEORGE HESSE</p> <p>2 A It's possible, yes. 3:30:00PM</p> <p>3 Q Were you at the -- were you at the 3:30:06PM</p> <p>4 preseason meeting? When I say that, do you know</p> <p>5 what that mean when I say a preseason meeting?</p> <p>6 A Yes. 3:30:13PM</p> <p>7 Q Of the department? 3:30:13PM</p> <p>8 A Yes. 3:30:14PM</p> <p>9 Q Were you at the preseason meeting the 3:30:15PM</p> <p>10 first year the Bosettis were hired?</p> <p>11 A I would say yes. 3:30:18PM</p> <p>12 Q And did you tell the Bosettis in front 3:30:20PM</p> <p>13 of the group that they would have to take their</p> <p>14 tests?</p> <p>15 A I don't recall. 3:30:28PM</p> <p>16 Q Did you ever speak with Catherine 3:30:38PM</p> <p>17 Spies? Do you know who that is, Catherine</p> <p>18 Spies?</p> <p>19 A Yes. 3:30:43PM</p> <p>20 Q Who is she? 3:30:43PM</p> <p>21 A She was the deputy clerk. She's not 3:30:45PM</p> <p>22 there anymore.</p> <p>23 Q Did you ever speak with her about this 3:30:49PM</p> <p>24 issue?</p> <p>25 A Yes. 3:30:51PM</p>
<p style="text-align: right;">Page 262</p> <p>1 GEORGE HESSE</p> <p>2 (Whereupon, a discussion was held off 3:13:01PM</p> <p>3 the record.)</p> <p>4 THE VIDEOGRAPHER: The time is now 3:29:04PM</p> <p>5 3:29 p.m. We are now back on the record.</p> <p>6 BY MR. GOODSTADT: 3:29:07PM</p> <p>7 Q Now, just to go back to the issue with 3:29:10PM</p> <p>8 the uncertified officers working in Ocean Beach.</p> <p>9 How did you learn about the fact that there was</p> <p>10 this problem?</p> <p>11 A I don't remember -- I think I stated I 3:29:23PM</p> <p>12 don't remember how I found out.</p> <p>13 Q Did you ever speak with Ms. Minerva 3:29:30PM</p> <p>14 about the issue?</p> <p>15 A Yes. 3:29:34PM</p> <p>16 Q When was the first time you spoke with 3:29:35PM</p> <p>17 her about this issue?</p> <p>18 A I don't recall. 3:29:37PM</p> <p>19 Q Do you recall what year it was? 3:29:39PM</p> <p>20 A It may have been the end of 2004 into 3:29:41PM</p> <p>21 2005. I don't know.</p> <p>22 Q And when were the Bosettis hired? 3:29:49PM</p> <p>23 A I believe they came on in -- this is 3:29:52PM</p> <p>24 off the top of my head, 2003.</p> <p>25 Q Is it possible it was 2002? 3:29:57PM</p>	<p style="text-align: right;">Page 264</p> <p>1 GEORGE HESSE</p> <p>2 Q When was the first time you spoke with 3:30:52PM</p> <p>3 her about the issue?</p> <p>4 MR. NOVIKOFF: About the issue, the 3:30:54PM</p> <p>5 certification?</p> <p>6 MR. GOODSTADT: About the 3:30:57PM</p> <p>7 certification issue, yes.</p> <p>8 A I don't recall. 3:30:58PM</p> <p>9 Q Did you ever speak with Joe Loeffler 3:31:04PM</p> <p>10 about the certification issue?</p> <p>11 A Yes. 3:31:07PM</p> <p>12 Q When was the first time you spoke with 3:31:09PM</p> <p>13 him?</p> <p>14 A I don't recall. 3:31:11PM</p> <p>15 Q Who did you speak with first out of 3:31:13PM</p> <p>16 those three people, Minerva, Loeffler, Spias,</p> <p>17 about the issue?</p> <p>18 A I don't recall. 3:31:23PM</p> <p>19 Q You're sure you didn't speak with 3:31:30PM</p> <p>20 Minerva in December of '03 about this</p> <p>21 certification issue?</p> <p>22 A Yeah. 3:31:37PM</p> <p>23 MR. NOVIKOFF: Objection to the form. 3:31:38PM</p> <p>24 A It could've been. 3:31:39PM</p> <p>25 Q So it's possible that you knew about 3:31:40PM</p>

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1 **GEORGE HESSE**
2 **the fact that there were uncertified officers**
3 **working as early as December of '03?**
4 MR. NOVIKOFF: Objection to the form 3:31:48PM
5 of the question.
6 A Possible. 3:31:50PM
7 **Q Did you ever speak with Paradiso about** 3:31:54PM
8 **the issue?**
9 A Yes. 3:31:56PM
10 **Q When is the first time you spoke with** 3:31:57PM
11 **him about the issue?**
12 A I don't recall. 3:32:01PM
13 **Q Did you ever speak with any other** 3:32:07PM
14 **trustees other than for Loeffler about the**
15 **issue?**
16 MR. NOVIKOFF: Objection. He didn't 3:32:13PM
17 say he talked to Loeffler.
18 BY MR. GOODSTADT: 3:32:15PM
19 **Q Did you ever speak to any trustees** 3:32:16PM
20 **about the issue?**
21 MR. CONNOLLY: When they were 3:32:20PM
22 trustees?
23 MR. GOODSTADT: When they were 3:32:21PM
24 trustees, yeah.
25 A Just Trustee Loeffler, I believe. I 3:32:23PM

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1 **GEORGE HESSE**
2 don't recall if I would've talked to anybody
3 else.
4 **Q Did you ever speak to Natalie Rogers** 3:32:28PM
5 **about the issue?**
6 A You know, I don't recall. 3:32:31PM
7 **Q You don't recall one way or the other?** 3:32:32PM
8 A No. 3:32:35PM
9 **Q Was there a plan put in place to fix** 3:32:35PM
10 **the problem when you first learned of it?**
11 MR. NOVIKOFF: Objection. 3:32:42PM
12 MR. GOODSTADT: Strike that. Strike 3:32:43PM
13 that.
14 BY MR. GOODSTADT: 3:32:44PM
15 **Q Was there a plan put in place to fix** 3:32:44PM
16 **the problem?**
17 MR. NOVIKOFF: Same objection. 3:32:48PM
18 A I wouldn't say there was a plan. I 3:32:49PM
19 would say there was a suggestion to fix the
20 problem.
21 **Q Who made the suggestion?** 3:32:53PM
22 A I don't know where it came from, but 3:32:58PM
23 it filtered to me.
24 **Q How did it filter to you?** 3:33:05PM
25 A Paradiso asked me to look into the 3:33:07PM

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1 **GEORGE HESSE**
2 matter and see what I could do to correct it.
3 **Q Do you know when that conversation** 3:33:15PM
4 **occurred?**
5 A I don't recall. 3:33:17PM
6 **Q And did you do anything to correct the** 3:33:20PM
7 **matter?**
8 A Yes. 3:33:25PM
9 **Q How long after Paradiso told you that** 3:33:26PM
10 **did you do something to correct the matter?**
11 A I'm sure I started working on it right 3:33:30PM
12 away.
13 **Q And at that point in time, when** 3:33:33PM
14 **Paradiso told you to correct the matter, had you**
15 **known there was a problem or was that the first**
16 **time you learned there was a problem?**
17 A I don't recall. 3:33:41PM
18 **Q What did you do to fix the problem?** 3:33:42PM
19 A I believe I contacted Civil Service 3:33:46PM
20 and had to find out what these officers had to
21 do.
22 **Q Who at Civil Service did you speak** 3:33:53PM
23 **with -- strike that.**
24 **Did you contact Civil Service?** 3:33:57PM
25 A I may have. 3:33:58PM

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1 **GEORGE HESSE**
2 **Q Do you recall actually contacting** 3:33:59PM
3 **Civil Service?**
4 A I don't recall. 3:34:02PM
5 **Q Do you recall speaking to anyone at** 3:34:02PM
6 **Civil Service about what they had to do to**
7 **correct the problem?**
8 A At some point, I was in touch with 3:34:08PM
9 Allison Chester or Sanchez to correct the
10 problem.
11 **Q Do you recall when that was?** 3:34:16PM
12 A I don't recall. 3:34:17PM
13 **Q Do you recall how long after Paradiso** 3:34:19PM
14 **suggested that you fix the problem, the time gap**
15 **between that and the time you spoke with Sanchez**
16 **about it?**
17 A I'm not positive, no. 3:34:31PM
18 **Q Was it days, weeks, months years?** 3:34:34PM
19 A I don't recall. 3:34:37PM
20 **Q Other than for you, who else was** 3:34:39PM
21 **involved with the plan to fix the problem?**
22 A Maryann Minerva. 3:34:43PM
23 **Q Anyone else in the village involved** 3:34:49PM
24 **with the plan to fix it?**
25 MR. NOVIKOFF: Objection. 3:34:54PM

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<p>1 GEORGE HESSE</p> <p>2 A Kathy Spies was part of it. 3:34:55PM</p> <p>3 Q Anyone else? 3:35:06PM</p> <p>4 MR. NOVIKOFF: Note my objection. 3:35:10PM</p> <p>5 A I don't know when Kara a McKenna 3:35:14PM</p> <p>6 started, but she also involved with the Civil</p> <p>7 Service stuff, so --</p> <p>8 Q What was Minerva's role in the plan to 3:35:23PM</p> <p>9 fix it?</p> <p>10 MR. NOVIKOFF: Objection to the form. 3:35:27PM</p> <p>11 A I don't know what her role was. 3:35:28PM</p> <p>12 Q Do you know anything that she did to 3:35:29PM</p> <p>13 help fix the problem?</p> <p>14 A I don't know what she did, no. 3:35:35PM</p> <p>15 Q What was Spies's role? 3:35:37PM</p> <p>16 MR. NOVIKOFF: Objection. 3:35:39PM</p> <p>17 A I know she was in contact with Civil 3:35:40PM</p> <p>18 Service. I know there were some forms that</p> <p>19 needed to be filled out.</p> <p>20 Q How do you know she was contact with 3:35:45PM</p> <p>21 Civil Service?</p> <p>22 A She told me. 3:35:49PM</p> <p>23 Q Do you recall when she told you, what 3:35:55PM</p> <p>24 year it was?</p> <p>25 A I don't recall. 3:35:57PM</p>	<p>1 GEORGE HESSE</p> <p>2 Q And during that period of a year and a 3:37:04PM</p> <p>3 half to two years, these people who were not</p> <p>4 certified were still being paid as police</p> <p>5 officers or did you suspend them for that</p> <p>6 period?</p> <p>7 MR. NOVIKOFF: Objection again to the 3:37:16PM</p> <p>8 form.</p> <p>9 When you say "you," are you saying 3:37:17PM</p> <p>10 Hesse or the village?</p> <p>11 MR. GOODSTADT: Good question. 3:37:21PM</p> <p>12 MR. NOVIKOFF: Because Hesse has said 3:37:22PM</p> <p>13 at the time that he had no authority to hire</p> <p>14 or fire.</p> <p>15 BY MR. GOODSTADT: 3:37:27PM</p> <p>16 Q Were these people employed by the 3:37:28PM</p> <p>17 village as police officers and paid by the</p> <p>18 village as police officers during that period?</p> <p>19 A Yes. 3:37:32PM</p> <p>20 Q Do you know whether anyone alerted 3:37:35PM</p> <p>21 Civil Service to that fact?</p> <p>22 MR. NOVIKOFF: Objection. 3:37:44PM</p> <p>23 A I don't know. 3:37:45PM</p> <p>24 Q When was Arnold Hardman certified? 3:37:55PM</p> <p>25 A He never completed certification. 3:37:58PM</p>
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<p>1 GEORGE HESSE</p> <p>2 Q Did she fill out the forms? 3:35:59PM</p> <p>3 MR. NOVIKOFF: Objection. 3:36:04PM</p> <p>4 A I believe she typed and hand writ some 3:36:04PM</p> <p>5 of them. I don't know if she signs off on them</p> <p>6 or Maryann Minerva signs off on them.</p> <p>7 Q How long did the process take from the 3:36:20PM</p> <p>8 time that you learned of the problem to the time</p> <p>9 that -- well, strike that.</p> <p>10 Was the problem ever rectified? 3:36:25PM</p> <p>11 A Yes. 3:36:27PM</p> <p>12 Q How was it rectified? What was done? 3:36:28PM</p> <p>13 A All our officers are now certified by 3:36:31PM</p> <p>14 Civil Service.</p> <p>15 Q And the ones who weren't certified 3:36:35PM</p> <p>16 stepped down or were fired or --</p> <p>17 A Yes. 3:36:39PM</p> <p>18 Q -- took different positions; is that 3:36:40PM</p> <p>19 what happened?</p> <p>20 A Yes. 3:36:42PM</p> <p>21 Q Okay. How long between the time that 3:36:42PM</p> <p>22 you learned of the problem until rectifying the</p> <p>23 problem?</p> <p>24 A It may have taken a year and a half, 3:36:52PM</p> <p>25 almost two years to correct.</p>	<p>1 GEORGE HESSE</p> <p>2 Q And when was he employed up until as a 3:38:09PM</p> <p>3 police officer?</p> <p>4 A I don't know the exact date when he 3:38:18PM</p> <p>5 was no longer employed. I don't know the exact</p> <p>6 date.</p> <p>7 Q Do you know what year it was? 3:38:24PM</p> <p>8 A It may -- I'm just guessing, but -- 3:38:26PM</p> <p>9 no, I don't recall. I don't recall.</p> <p>10 Q Did he work at all in the season of 3:38:31PM</p> <p>11 2006?</p> <p>12 A Yes. 3:38:35PM</p> <p>13 Q Okay. So he was still working at the 3:38:36PM</p> <p>14 beach as an uncertified police officer after the</p> <p>15 plaintiffs in this case were let go?</p> <p>16 A Yes. 3:38:45PM</p> <p>17 Q And at that point in time, did you 3:38:47PM</p> <p>18 know that he was not certified?</p> <p>19 A Yes. 3:38:51PM</p> <p>20 Q So the problem actually wasn't fully 3:38:58PM</p> <p>21 rectified in the year and a half to two years,</p> <p>22 correct?</p> <p>23 MR. NOVIKOFF: Objection to form. 3:39:03PM</p> <p>24 MR. CALLAHAN: Objection to the form. 3:39:06PM</p> <p>25 A It depends on when we started it. 3:39:07PM</p>

<p style="text-align: right;">Page 273</p> <p>1 GEORGE HESSE</p> <p>2 MR. NOVIKOFF: Exactly. 3:39:09PM</p> <p>3 A But I don't know exactly what the 3:39:10PM</p> <p>4 start date was, but I think it took somewhere in</p> <p>5 the range of a year and a half to two years to</p> <p>6 rectify it.</p> <p>7 Q Why did you let Arnold Hardman go if 3:39:19PM</p> <p>8 he wasn't certified --</p> <p>9 MR. NOVIKOFF: Prior objection. 3:39:25PM</p> <p>10 BY MR. GOODSTADT: 3:39:26PM</p> <p>11 Q -- prior to the season of 2006? 3:39:26PM</p> <p>12 MR. NOVIKOFF: Now objection to 3:39:30PM</p> <p>13 foundation because he testified that he had</p> <p>14 no hiring or firing authority until he was</p> <p>15 appointed deputy chief.</p> <p>16 MR. GOODSTADT: Which was January of 3:39:36PM</p> <p>17 '06. Now I'm talking about April '06.</p> <p>18 MR. NOVIKOFF: No. I think you 3:39:39PM</p> <p>19 mentioned before the season.</p> <p>20 MR. GOODSTADT: Yeah. 3:39:44PM</p> <p>21 MR. NOVIKOFF: Okay, I understand. 3:39:44PM</p> <p>22 Okay, you're right.</p> <p>23 MR. GOODSTADT: The decision was made 3:39:45PM</p> <p>24 after he was deputy chief.</p> <p>25 MR. NOVIKOFF: You're right. You're 3:39:47PM</p>	<p style="text-align: right;">Page 275</p> <p>1 GEORGE HESSE</p> <p>2 which would be the polygraph; and for unknown</p> <p>3 circumstances, polygraph would not let him take</p> <p>4 the test.</p> <p>5 Q What do you mean by that? 3:40:46PM</p> <p>6 A We feel there was some interference 3:40:50PM</p> <p>7 from the D.A.'s office, and they didn't permit</p> <p>8 him to take the polygraph test.</p> <p>9 Q When did he apply to take the 3:41:02PM</p> <p>10 polygraph test, if you know?</p> <p>11 A I don't know the exact date, but we 3:41:08PM</p> <p>12 had three tentative dates set up. We went to</p> <p>13 two of them and we were turned away.</p> <p>14 Q What's the basis of your belief that 3:41:22PM</p> <p>15 the D.A. interfered?</p> <p>16 A They wouldn't give us a reason why 3:41:25PM</p> <p>17 they wouldn't let him take the test, and we were</p> <p>18 under investigation at that point.</p> <p>19 Q So what leads you to the conclusion 3:41:31PM</p> <p>20 that the D.A. actually interfered with the</p> <p>21 ability of Mr. Hardman to take the test?</p> <p>22 A Because that's my feeling. 3:41:38PM</p> <p>23 Q Do you recall when he was scheduled, 3:41:41PM</p> <p>24 what year it was he was scheduled to go take the</p> <p>25 test?</p>
<p style="text-align: right;">Page 274</p> <p>1 GEORGE HESSE</p> <p>2 right.</p> <p>3 MR. CONNOLLY: I'm just going to ask 3:39:48PM</p> <p>4 that we read the question back now.</p> <p>5 MR. GOODSTADT: Okay. 3:39:51PM</p> <p>6 MR. CONNOLLY: Or you can repeat it. 3:39:51PM</p> <p>7 MR. GOODSTADT: It's been so long ago, 3:39:51PM</p> <p>8 I'm not even sure what the question was.</p> <p>9 BY MR. GOODSTADT: 3:40:04PM</p> <p>10 Q So why didn't you let Arnold Hardman 3:40:05PM</p> <p>11 go at the same time that you let the plaintiffs</p> <p>12 go if you knew that he was not certified?</p> <p>13 MR. NOVIKOFF: Objection, only to the 3:40:14PM</p> <p>14 extent that we have the same stipulation.</p> <p>15 MR. GOODSTADT: We do. 3:40:18PM</p> <p>16 MR. NOVIKOFF: You say let go, we say 3:40:19PM</p> <p>17 not rehired.</p> <p>18 MR. GOODSTADT: It's also the word 3:40:23PM</p> <p>19 that he used in the memo.</p> <p>20 MR. NOVIKOFF: That's different, 3:40:26PM</p> <p>21 Andrew.</p> <p>22 A Ready? 3:40:28PM</p> <p>23 Q Yes. 3:40:29PM</p> <p>24 A He was in the process of completing 3:40:30PM</p> <p>25 his battery of tests. He had one test to go,</p>	<p style="text-align: right;">Page 276</p> <p>1 GEORGE HESSE</p> <p>2 A I don't know the exact dates. No. 3:41:46PM</p> <p>3 Q Do you recall what year it was? 3:41:52PM</p> <p>4 A 2006. 3:41:53PM</p> <p>5 Q 2006? 3:41:54PM</p> <p>6 A Yeah. 3:41:54PM</p> <p>7 Q Did he apply to take the test -- well, 3:42:01PM</p> <p>8 strike that.</p> <p>9 When was he hired? 3:42:04PM</p> <p>10 A 2003, 2004 possibly. 3:42:06PM</p> <p>11 Q And when in 2006, was it before the 3:42:15PM</p> <p>12 season or after the season that he applied?</p> <p>13 A Actually, I'm mistaken on the dates. 3:42:19PM</p> <p>14 There was -- there was an opportunity for him to</p> <p>15 take it in 2005; but then I think he couldn't</p> <p>16 make that date, so I rescheduled someone else to</p> <p>17 take it on that date. And he may have been</p> <p>18 rescheduled at a later date. I don't know the</p> <p>19 exact date.</p> <p>20 Q So he failed to appear in '05? 3:42:37PM</p> <p>21 A I wouldn't say he failed to appear. 3:42:40PM</p> <p>22 It was a reschedule.</p> <p>23 Q And what date in '06 was he 3:42:47PM</p> <p>24 rescheduled for? Was it before the season or</p> <p>25 after the season?</p>

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1 **GEORGE HESSE**

2 A It was in the heart of the season. I 3:42:53PM

3 believe it might have been in the latter of

4 July, you know, one of the scheduled dates.

5 That might have been one of the last time that

6 we even tried.

7 **Q How often does the county administer 3:43:06PM**

8 **polygraph tests?**

9 MR. NOVIKOFF: Objection. 3:43:11PM

10 BY MR. GOODSTADT: 3:43:11PM

11 **Q Back then, in '05. 3:43:12PM**

12 MR. NOVIKOFF: Same objection. 3:43:13PM

13 A It's by appointment. 3:43:14PM

14 **Q Do they administer it all year round? 3:43:16PM**

15 MR. NOVIKOFF: Objection. 3:43:19PM

16 A Yes. 3:43:20PM

17 **Q So you can call and get on the 3:43:20PM**

18 **schedule any time of the year?**

19 MR. NOVIKOFF: Objection. 3:43:24PM

20 BY MR. GOODSTADT: 3:43:25PM

21 **Q Or fill out a form and schedule any 3:43:27PM**

22 **time of the year?**

23 MR. NOVIKOFF: Objection. 3:43:31PM

24 A I'm sure they could perform the test 3:43:32PM

25 at any time of the year. It depends on their

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1 **GEORGE HESSE**

2 availability.

3 **Q Did you -- when you say that you -- 3:43:39PM**

4 **strike that.**

5 **Did you actually call and reschedule 3:43:42PM**

6 **someone in for Hardman's spot that he couldn't**

7 **make?**

8 A Yes. 3:43:49PM

9 **Q Did you at that time ask to have him 3:43:49PM**

10 **rescheduled?**

11 A I don't know if I did or not. 3:43:53PM

12 **Q Do you know when the first time 3:43:54PM**

13 **somebody reached out to the county to reschedule**

14 **him after he didn't appear in the '05 test?**

15 A Repeat that. 3:44:02PM

16 MR. GOODSTADT: Could you read that 3:44:04PM

17 back.

18 (Whereupon, the requested portion was 3:44:05PM

19 read back by the court reporter: Do you

20 know when the first time somebody reached

21 out to the county to reschedule him after he

22 didn't appear in the '05 test?)

23 A Read that one more time, I'm sorry. 3:44:19PM

24 **Q I'll reask it. 3:44:21PM**

25 **Do you know when the first time either 3:44:22PM**

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1 **GEORGE HESSE**

2 **he or someone on his behalf reached out to the**

3 **county to reschedule the test after he didn't**

4 **appear in '05?**

5 A I don't know. I would've been the 3:44:31PM

6 only one that would have rescheduled his test,

7 so I don't recall.

8 **Q Do you have anything that would 3:44:38PM**

9 **refresh your recollection? Take any notes of**

10 **these calls?**

11 A Not that I recall. 3:44:42PM

12 **Q How did you alert the officers when 3:44:43PM**

13 **their scheduled dates were coming up?**

14 A Just by cell phone -- by telephone. 3:44:48PM

15 **Q So you would call them? 3:44:50PM**

16 A Yeah. 3:44:52PM

17 **Q Did you ever do anything in writing, 3:44:52PM**

18 **either by E-mail or a memo or a letter?**

19 A Sometimes I would write it right on 3:44:55PM

20 the front of their application pack. Maybe I'd

21 just write it down on a note.

22 **Q Do you know whether you wrote anything 3:45:02PM**

23 **down with respect to Hardman?**

24 A I may have wrote something on the face 3:45:05PM

25 of his application, but I did that sometimes. I

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1 **GEORGE HESSE**

2 didn't do it all the time. I don't know.

3 **Q When you say "application," that was 3:45:13PM**

4 **the applicant investigation section that you**

5 **were running at the time?**

6 A Yes. 3:45:17PM

7 **Q Okay. Who replaced Hardman in the '05 3:45:18PM**

8 **spot?**

9 A I believe it was Greg Kephlian. 3:45:24PM

10 K-E-G-H-L-I-A-N, Kephlian.

11 **Q Was Kephlian a new hire in '05 or had 3:45:33PM**

12 **he been a person who had been working there not**

13 **certified?**

14 A He wasn't a new hire in '05. He 3:45:43PM

15 started in, I believe, '06. But I might have

16 given his spot to Kephlian or it might have been

17 Bill Embry. It might have even been Joe

18 Dediminico. I'm not real sure.

19 **Q Other than for -- well, strike that. 3:46:05PM**

20 **Which people who served as police 3:46:09PM**

21 **officers that were uncertified eventually did**

22 **not pass the test to become certified? You**

23 **testified Hardman. I think you testified Cherry**

24 **decided that he would drop down because he**

25 **didn't want to take the test. Who else**

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1 **GEORGE HESSE**
2 **eventually did not become certified?**
3 A Danny Shook, John Dyer. Bill Walsh, 3:46:28PM
4 he was never scheduled to do anything. He just
5 went on to work at the D.A.'s office in Nassau.
6 I said John Dyer? Did I say him? 3:46:46PM
7 **Q You did. 3:46:49PM**
8 A Bullis decided not to take the battery 3:46:51PM
9 of tests. He stepped down. I'm not sure who
10 else.
11 **Q What happened to Dyer? Did he step 3:47:00PM**
12 **down or was he fired?**
13 A I let him go. 3:47:03PM
14 **Q When did that happen? 3:47:04PM**
15 A In 2006. 3:47:12PM
16 **Q When did you let him go in 2006? 3:47:15PM**
17 A Because he failed the polygraph. 3:47:17PM
18 **Q When did you let him go? 3:47:19PM**
19 A Well, he didn't work the whole winter 3:47:23PM
20 of '05 in through '06. So I think officially
21 might have been April 4th by memo to the village
22 office.
23 **Q If he failed the polygraph, would he 3:47:44PM**
24 **have the opportunity to take it again?**
25 A Yes. 3:47:49PM

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1 **GEORGE HESSE**
2 **Q And he elected not to or you 3:47:49PM**
3 **terminated him just because he failed it?**
4 A He pretty much elected not to do it 3:47:52PM
5 again.
6 **Q How about Dan Shook, did he step down, 3:47:55PM**
7 **did you let him go or did something else happen**
8 **with him?**
9 A He -- he moved -- well, he took a 3:48:03PM
10 different position within the police department.
11 **Q What position did he take? 3:48:07PM**
12 A Dispatcher. 3:48:08PM
13 **Q How about Walsh? Was he the one who 3:48:08PM**
14 **moved to the D.A.?**
15 A Yes. 3:48:12PM
16 **Q How about Bullis? 3:48:12PM**
17 A Dispatcher. 3:48:14PM
18 **Q Did you get a copy of the 3:48:27PM**
19 **pre-polygraph questionnaire for your officers**
20 **prior to them taking the polygraph?**
21 A The pre-polygraph questionnaire is 3:48:34PM
22 part of the original packet.
23 **Q It's part of the packet? How did you 3:48:38PM**
24 **get the pre-polygraph questionnaire?**
25 A That was part of -- when I was 3:48:43PM

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1 **GEORGE HESSE**
2 arranging this application, I found it online
3 for another job. I don't remember what the
4 other job was.
5 **Q Eddie Carter didn't get you a copy of 3:48:50PM**
6 **that from somebody in Quogue?**
7 A That? You know what, I don't know. I 3:48:55PM
8 think I got it online.
9 **Q Did you ever allow any of the 3:49:03PM**
10 **uncertified officers to review the polygraph**
11 **questionnaire from Frank Fiorillo's personnel**
12 **jacket?**
13 A No. 3:49:13PM
14 **Q Are the police officer personnel 3:49:16PM**
15 **jackets kept in the station?**
16 A Yes. 3:49:20PM
17 **Q Where in the station? 3:49:20PM**
18 A Now they're kept in a locked filing 3:49:21PM
19 cabinet.
20 **Q How about in '05? 3:49:24PM**
21 A In '05, they were kept in a filing 3:49:26PM
22 cabinet.
23 **Q Unlocked? 3:49:29PM**
24 A Unlocked. 3:49:29PM
25 **Q Did Allen Loeffler pass all tests that 3:49:41PM**

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1 **GEORGE HESSE**
2 **are required to be a police officer?**
3 A He's been a cop since 1973. I would 3:49:45PM
4 assume so.
5 **Q Do you know whether he took the basic 3:49:49PM**
6 **course for police officers?**
7 A Yes, he did. 3:49:52PM
8 **Q Do you know whether anyone looked in 3:50:03PM**
9 **Frank's jacket to look at the polygraph**
10 **questions?**
11 A Not that I recall. 3:50:09PM
12 (Whereupon, Bates document 5773 was 3:50:16PM
13 marked as Plaintiff's Exhibit 6 for
14 identification, as of this date.)
15 MR. NOVIKOFF: Hesse 6? 3:50:46PM
16 MR. GOODSTADT: Hesse 6. 3:50:48PM
17 I've placed in front of Mr. Hesse 3:50:56PM
18 what's been marked as Hesse 6. It's a
19 one-page document bearing Bates No. 5773.
20 (Handing.)
21 BY MR. GOODSTADT: 3:51:05PM
22 **Q Mr. Hesse, have you ever seen this 3:51:05PM**
23 **document?**
24 A I may have. 3:51:07PM
25 **Q You see in the second paragraph -- and 3:51:08PM**

<p style="text-align: right;">Page 285</p> <p>1 GEORGE HESSE</p> <p>2 this is a letter from the State of New York,</p> <p>3 Division of Criminal Justice Services. Second</p> <p>4 paragraph, it says, "We've conducted a search of</p> <p>5 our registry" records -- "registry and training</p> <p>6 records, finding that Police Officer Allen</p> <p>7 Loeffler, who is registered as a police officer</p> <p>8 with the Ocean Beach Village Police Department,</p> <p>9 has not successfully completed the basic course</p> <p>10 for police officers."</p> <p>11 Do you see that? 3:51:32PM</p> <p>12 A Yes. 3:51:33PM</p> <p>13 Q Do you know what that refers to? 3:51:34PM</p> <p>14 A It's stating that they say that he 3:51:35PM</p> <p>15 never completed the police academy.</p> <p>16 Q Do you know whether this was ever 3:51:42PM</p> <p>17 resolved one way or the other?</p> <p>18 MR. NOVIKOFF: Objection. You haven't 3:51:46PM</p> <p>19 asked him yet whether or not he was ever</p> <p>20 aware of this since it was sent. It went to</p> <p>21 Paradiso.</p> <p>22 BY MR. GOODSTADT: 3:51:51PM</p> <p>23 Q Well, have you ever heard of that 3:51:52PM</p> <p>24 issue?</p> <p>25 A Yes. 3:51:53PM</p>	<p style="text-align: right;">Page 287</p> <p>1 GEORGE HESSE</p> <p>2 A I'm not sure. 3:52:32PM</p> <p>3 Q What was the attempt that was made to 3:52:41PM</p> <p>4 resolve the issue?</p> <p>5 MR. NOVIKOFF: Objection. Foundation. 3:52:44PM</p> <p>6 Go ahead. 3:52:45PM</p> <p>7 MR. CONNOLLY: Objection. 3:52:47PM</p> <p>8 You can answer. 3:52:48PM</p> <p>9 A Okay. I actually called the police 3:52:49PM</p> <p>10 academy -- academy to see if they could pull</p> <p>11 some records from back then, 1973; and out of</p> <p>12 all the class files, they could not the class</p> <p>13 that he was in.</p> <p>14 Q Uh-huh. So to this day, do you know 3:53:07PM</p> <p>15 whether there's ever been any confirmation,</p> <p>16 official confirmation that he graduated the</p> <p>17 academy?</p> <p>18 A None that I've received. 3:53:17PM</p> <p>19 Q Did you ever discuss with Allen 3:53:41PM</p> <p>20 Loeffler why he stopped working as a police</p> <p>21 officer in Ocean Beach?</p> <p>22 A I don't recall. 3:53:49PM</p> <p>23 Q How many years did he work on the 3:53:51PM</p> <p>24 Ocean Beach force?</p> <p>25 A I'd like to say on and off since 1970. 3:53:59PM</p>
<p style="text-align: right;">Page 286</p> <p>1 GEORGE HESSE</p> <p>2 MR. NOVIKOFF: Okay. 3:51:54PM</p> <p>3 BY MR. GOODSTADT: 3:51:55PM</p> <p>4 Q When did you hear of it? 3:51:55PM</p> <p>5 A I don't recall. 3:51:56PM</p> <p>6 Q It was not in connection with this 3:51:58PM</p> <p>7 case, right?</p> <p>8 MR. NOVIKOFF: Objection. Form. 3:52:01PM</p> <p>9 A No. 3:52:02PM</p> <p>10 Q So you learned about it before this 3:52:03PM</p> <p>11 case?</p> <p>12 A Yes. 3:52:05PM</p> <p>13 Q Okay. Do you know whether this issue 3:52:05PM</p> <p>14 was ever resolved one way or the other?</p> <p>15 A I believe there was an attempt to 3:52:10PM</p> <p>16 resolve it; but in my recollection, it has never</p> <p>17 been resolved.</p> <p>18 Q Do you know whether -- well, strike 3:52:21PM</p> <p>19 that.</p> <p>20 When did Loeffler stop working for the 3:52:24PM</p> <p>21 beach?</p> <p>22 A Off the top of my head, I don't know 3:52:26PM</p> <p>23 what year.</p> <p>24 Q He stop working because of this issue? 3:52:30PM</p> <p>25 MR. NOVIKOFF: Objection. 3:52:32PM</p>	<p style="text-align: right;">Page 288</p> <p>1 GEORGE HESSE</p> <p>2 Q If he did not pass the academy or 3:54:02PM</p> <p>3 graduate the academy, do you know whether that</p> <p>4 would be a violation of New York State Civil</p> <p>5 Service law?</p> <p>6 MR. NOVIKOFF: Objection. 3:54:17PM</p> <p>7 MR. CALLAHAN: Objection. 3:54:18PM</p> <p>8 MR. CONNOLLY: Objection. 3:54:19PM</p> <p>9 A I have no idea. 3:54:19PM</p> <p>10 MR. GOODSTADT: Please mark that. 3:54:26PM</p> <p>11 (Whereupon, Bates document 5769 was 3:54:27PM</p> <p>12 marked as Plaintiff's Exhibit 7 for</p> <p>13 identification, as of this date.)</p> <p>14 MR. GOODSTADT: I've placed in front 3:54:52PM</p> <p>15 of Mr. Hesse what's been marked as Hesse 7.</p> <p>16 It's a one-page exhibit bearing Bates</p> <p>17 No. 5769. (Handing.)</p> <p>18 BY MR. GOODSTADT: 3:55:00PM</p> <p>19 Q Mr. Hesse, have you ever seen this 3:55:01PM</p> <p>20 letter from the Suffolk County Department of</p> <p>21 Civil Service?</p> <p>22 A I may have. 3:55:09PM</p> <p>23 Q And do you see on the second paragraph 3:55:16PM</p> <p>24 where it says, "Unless we receive notification</p> <p>25 that Mr. Loeffler has satisfied the criteria for</p>

<p style="text-align: right;">Page 289</p> <p>1 GEORGE HESSE</p> <p>2 police officer certification, our records would</p> <p>3 indicate that his appointment was disapproved.</p> <p>4 Continued employment would be a violation of New</p> <p>5 York State Civil Service law."</p> <p>6 Do you see that? 3:55:34PM</p> <p>7 A Yes. 3:55:36PM</p> <p>8 MR. NOVIKOFF: Are you going to read 3:55:37PM</p> <p>9 the next sentence?</p> <p>10 BY MR. GOODSTADT: 3:55:39PM</p> <p>11 Q "It is our understanding that 3:55:39PM</p> <p>12 Mr. Loeffler is no longer employed by the</p> <p>13 village, but that his termination has not been</p> <p>14 reported to us."</p> <p>15 MR. NOVIKOFF: Okay. Thank you. 3:55:46PM</p> <p>16 BY MR. GOODSTADT: 3:55:47PM</p> <p>17 Q The question is: Does this refresh 3:55:48PM</p> <p>18 your recollection as to whether it would be a</p> <p>19 Civil Service violation if he had worked there</p> <p>20 without passing or without graduating the</p> <p>21 academy?</p> <p>22 MR. NOVIKOFF: I'm going to object to 3:55:57PM</p> <p>23 the question as to form, and the basis for</p> <p>24 my objection is he didn't say he doesn't</p> <p>25 recall. He says I have no clue. So I'm</p>	<p style="text-align: right;">Page 291</p> <p>1 GEORGE HESSE</p> <p>2 seasonal part-time, whatever you want to call</p> <p>3 them, were let go. They all were seeking other</p> <p>4 part-time seasonal police jobs. And I believe</p> <p>5 we hired two of them. And from what I recall</p> <p>6 was that because Ocean Beach just employed them</p> <p>7 and put them on, that other villages that came</p> <p>8 in contact with these officers had made a gripe</p> <p>9 that we, Ocean Beach, just employed these guys</p> <p>10 without having to go through a battery of Civil</p> <p>11 Service tests, and they protested it. So I</p> <p>12 believe someone contacted Civil Service and</p> <p>13 said, well, if Ocean Beach doesn't do it, why do</p> <p>14 we have to do it.</p> <p>15 Q So you believe it was another village 3:58:15PM</p> <p>16 police department?</p> <p>17 A I believe so, yes. 3:58:19PM</p> <p>18 Q Did you ever hear anyone allege that 3:58:20PM</p> <p>19 it was Tommy Snyder who tipped off Civil Service</p> <p>20 to that problem?</p> <p>21 A I've heard allegations of such, but 3:58:27PM</p> <p>22 not about Tom Snyder.</p> <p>23 Q Who did you hear allegations about 3:58:31PM</p> <p>24 that tipped off Civil Service?</p> <p>25 A Eddie Carter. 3:58:35PM</p>
<p style="text-align: right;">Page 290</p> <p>1 GEORGE HESSE</p> <p>2 objecting to the form of the question.</p> <p>3 MR. CONNOLLY: Similar objection. 3:56:07PM</p> <p>4 Please answer the question. 3:56:10PM</p> <p>5 A I wouldn't know. 3:56:11PM</p> <p>6 Q Do you know how this certification 3:56:29PM</p> <p>7 issue was brought to the Civil Service</p> <p>8 attention?</p> <p>9 MR. NOVIKOFF: Objection to form. No 3:56:36PM</p> <p>10 foundation.</p> <p>11 MR. CALLAHAN: Same. 3:56:39PM</p> <p>12 A On Allen Loeffler specifically? 3:56:41PM</p> <p>13 Q No, just generally, that there were 3:56:44PM</p> <p>14 people at Ocean Beach working as police officers</p> <p>15 who were not certified.</p> <p>16 MR. NOVIKOFF: Same objection. 3:56:50PM</p> <p>17 A I have an idea, yes. 3:56:51PM</p> <p>18 Q And what's your idea? 3:56:52PM</p> <p>19 A There was an issue with -- we picked 3:56:55PM</p> <p>20 up a couple of police officers that once worked</p> <p>21 for the state park police as part-time seasonal</p> <p>22 police officers. It should be seasonal. They</p> <p>23 were strictly seasonal. And the New York State</p> <p>24 park police decided to do away with their</p> <p>25 part-time seasonal program, and a bunch of those</p>	<p style="text-align: right;">Page 292</p> <p>1 GEORGE HESSE</p> <p>2 Q Who told you that Ed Carter tipped off 3:58:44PM</p> <p>3 Civil Service?</p> <p>4 A I don't recall. 3:58:47PM</p> <p>5 Q You don't recall who -- strike that. 3:58:48PM</p> <p>6 Where were you when you learned about 3:58:51PM</p> <p>7 that?</p> <p>8 A I don't recall. 3:58:53PM</p> <p>9 Q Was it people on the department who 3:58:54PM</p> <p>10 mentioned that to you?</p> <p>11 A It may have been, yes. 3:58:57PM</p> <p>12 Q Did you ever discuss that issue with 3:59:00PM</p> <p>13 the Bosettis?</p> <p>14 MR. NOVIKOFF: What issue? 3:59:02PM</p> <p>15 MR. GOODSTADT: That Ed Carter tipped 3:59:03PM</p> <p>16 off Civil Service, the claim that Ed Carter</p> <p>17 tipped off the Civil Service to the fact</p> <p>18 that there were uncertified officers working</p> <p>19 there.</p> <p>20 MR. NOVIKOFF: I object to the form. 3:59:14PM</p> <p>21 A There were protests made by other 3:59:15PM</p> <p>22 part-time seasonal police officers to that fact,</p> <p>23 but I let it be known where I actually heard it</p> <p>24 from.</p> <p>25 Q Who issued or lodged these protests? 3:59:22PM</p>

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1 **GEORGE HESSE**

2 A Gary Bosetti, Ty Bacon. I don't 3:59:28PM

3 recall if anybody else ever really protested it.

4 **Q Did you ever hear either Bosetti or 3:59:37PM**

5 **Bacon refer to Ed Carter as a rat?**

6 A I don't recall. 3:59:44PM

7 **Q Did you ever hear them refer to Ed 3:59:45PM**

8 **Carter as a Civil Service rat?**

9 A I don't recall. 3:59:49PM

10 **Q Did you ever hear them, either of 3:59:50PM**

11 **them, refer to any of the plaintiffs as a rat?**

12 A I don't recall. 3:59:54PM

13 **Q Did you ever hear them refer to any of 3:59:55PM**

14 **the plaintiffs as a Civil Service rat?**

15 A I really don't recall. 4:00:01PM

16 **Q Did you ever hear anyone refer to the 4:00:03PM**

17 **plaintiffs or any of the plaintiffs as a rat?**

18 A I don't recall. 4:00:07PM

19 **Q Did you ever hear anyone refer to any 4:00:07PM**

20 **of the plaintiffs as a Civil Service rat?**

21 A I don't recall. 4:00:12PM

22 **Q Do you have anything that would 4:00:12PM**

23 **refresh your recollection?**

24 A No. 4:00:15PM

25 **Q Did you ever refer to any of the 4:00:15PM**

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1 **GEORGE HESSE**

2 **plaintiffs as a rat?**

3 A Yes. 4:00:22PM

4 **Q Which plaintiffs did you refer to as a 4:00:22PM**

5 **rat?**

6 A Frank Fiorillo. 4:00:25PM

7 **Q When did you refer to him as a rat? 4:00:28PM**

8 A I believe it was on a blog. 4:00:30PM

9 **Q So you posted on the blog referring to 4:00:38PM**

10 **Frank Fiorillo as a rat?**

11 A Yes. 4:00:41PM

12 **Q Which blog? 4:00:42PM**

13 A The Schwartz report, 4:00:43PM

14 LongIslandpolitics.com.

15 **Q What name did you post under? 4:00:49PM**

16 A For that entry, I don't know. 4:00:54PM

17 **Q How many times did you post on the 4:00:56PM**

18 **Schwartz report?**

19 A Oh God, 25, 30 times, maybe. 4:01:01PM

20 **Q Under what names have you posted 4:01:05PM**

21 **under?**

22 A Still Employed was one. Maybe Still 4:01:15PM

23 Employed 2. Dirty, Dirty 1, with the number

24 one, and maybe some other variations of that.

25 Others, I don't recall.

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1 **GEORGE HESSE**

2 **Q Do you have a list anywhere of names 4:01:34PM**

3 **that you posted under?**

4 A I don't currently have a list, no. 4:01:38PM

5 **Q Did you ever have a list? 4:01:40PM**

6 A Just what was on the blog. 4:01:41PM

7 **Q And what -- where did you post these 4:01:43PM**

8 **25 to 30 -- I know you posted them on the**

9 **Schwartz report. But where physically were you**

10 **when you were posting these 25 to 30 posts?**

11 A From my house. 4:01:53PM

12 **Q Did you ever post from the Ocean Beach 4:01:54PM**

13 **Police Department?**

14 A A couple. 4:01:57PM

15 **Q How many times did you post from the 4:02:02PM**

16 **police department?**

17 A I don't recall. 4:02:05PM

18 **Q Which house did you post from? 4:02:06PM**

19 A 191 The Helm. 4:02:08PM

20 **Q Are you aware of any other current or 4:02:17PM**

21 **former Ocean Beach police officers who post on**

22 **the blog?**

23 A Nobody that's openly admitted to me, 4:02:25PM

24 no.

25 **Q Did you ever see anyone post on the 4:02:29PM**

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1 **GEORGE HESSE**

2 **blog in the police station, other than for**

3 **yourself?**

4 A No. 4:02:34PM

5 MR. GOODSTADT: Tape's over. 4:02:37PM

6 THE VIDEOGRAPHER: Yeah. The time is 4:02:39PM

7 now 4:02 p.m. We are now off the record.

8 (Whereupon, a discussion was held off 4:02:59PM

9 the record.)

10 MR. GOODSTADT: Back on the record. 4:04:20PM

11 Well, due to a scheduling problem, 4:04:25PM

12 we've decided to break for the day, but

13 Mr. Connolly has agreed to bring his client

14 back for an additional day, not a full day,

15 on another occasion to complete the

16 deposition. I still have two hours and 35

17 minutes under the federal rules. We plan to

18 make a motion to the court, unless we can

19 agree to some additional time prior to that.

20 MR. CONNOLLY: That is my 4:04:49PM

21 understanding.

22 MR. GOODSTADT: I also want to put on 4:04:50PM

23 the record, to the extent that Mr. Hesse has

24 not reviewed his E-mail accounts, which I

25 think he was required to do under the

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PROCEEDINGS

CERTIFICATE

I, JUDI JOHNSON, RPR, CRR, CLR, a Notary Public
and for the State of New York, do hereby certify:

THAT the witness whose testimony is hereinbefore set forth, was duly sworn by me; and

THAT the within transcript is a true record of the testimony given by said witness. I further certify that I am not related, either by blood or marriage, to any of the parties to this action; and THAT I am in no way interested in the outcome of this matter.

IN WITNESS WHEREOF, I have hereunto set
my hand this 8th day of June, 2009.

JUDI JOHNSON, RPR, CRR, CLR

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PROCEEDINGS

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GEORGE HESSE

INDEX OF HESSE EXHIBITS

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ERRATA SHEET

NAME OF CASE: CARTER V. OCEAN BEACH

DATE OF DEPOSITION: June 3, 2009

NAME OF WITNESS: GEORGE HESSE

Reason codes:

1. To clarify the record.

2. To conform to the facts

3. To correct the transcription

errors.

Page _____ Line _____ Reason _____

From _____ to _____

Page _____ Line _____ Reason _____

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GEORGE HESSE

<p style="text-align: right;">Page 302</p> <p>UNITED STATES DISTRICT COURT EASTERN DISTRICT OF NEW YORK</p> <p>----- X EDWARD CARTER, FRANK FIORILO,) KEVIN LAMM, JOSEPH NOFI, and) THOMAS SNYDER,) Plaintiffs,) -against-) Index No.) CV 07 1215)</p> <p>INCORPORATED VILLAGE OF OCEAN BEACH; MAYOR JOSEPH C. LOEFFLER, JR., individually) and in his Official capacity;) former mayor NATALIE K.ROGERS,) individually and in her) official capacity; OCEAN BEACH) POLICE DEPARTMENT; ACTING) DEPUTY POLICE CHIEF GEORGE B.) HESSE, individually and in his) official capacity; SUFFOLK) COUNTY; SUFFOLK COUNTY POLICE) DEPARTMENT OF CIVIL SERVICE;) and ALLISON SANCHEZ,) individually and in her) official capacity,) Defendants.) ----- X</p> <p>***VOLUME II*** CONTINUED DEPOSITION OF GEORGE HESSE Uniondale, New York June 16, 2009</p> <p>Reported by: Judi Johnson, RPR, CRR, CLR Job No.: 23331</p>	<p style="text-align: right;">Page 304</p> <p>1 GEORGE HESSE 2 APPEARANCES: 3 THOMPSON WIGDOR & GILLY, LLP 4 Attorneys for the Plaintiffs 5 85 Fifth Avenue 6 New York, New York 10003 7 8 BY: ANDREW S. GOODSTADT, ESQ. 9 10 MARKS, O'NEILL, O'BRIEN & COURTNEY, P.C. 11 Attorneys for GEORGE B. HESSE 12 530 Saw Mill Road 13 Elmsford, New York 10523 14 15 BY: KEVIN W. CONNOLLY, ESQ. 16 17 RIVKIN RADLER, LLP 18 Attorneys for INCORPORATED VILLAGE OF OCEAN BEACH, 19 JOSEPH LOEFFLER, NATALIE ROGERS AND OCEAN BEACH 20 POLICE DEPARTMENT 21 926 RexCorp Plaza 22 Uniondale, New York 11556-0926 23 24 BY: KENNETH A. NOVIKOFF, ESQ. 25 MICHAEL SCHNEPPER, ESQ. (A.M. SESSION ONLY)</p>
<p style="text-align: right;">Page 303</p> <p>1 2 926 RexCorp Plaza 3 Uniondale, New York 4 5 June 16, 2009 6 10:00 A.M. 7 8 9 10 11 12 13 Deposition of GEORGE HESSE, held at 14 the offices of RIVKIN RADLER, LLP, 926 15 RexCorp Plaza, Uniondale, New York, pursuant 16 to Notice, before Judi Johnson, a Registered 17 Professional Reporter, a Certified Realtime 18 Reporter, a Certified LiveNote Reporter and 19 Notary Public of the State of New York. 20 21 22 23 24 25</p>	<p style="text-align: right;">Page 305</p> <p>1 GEORGE HESSE 2 3 BEE READY FISHBEIN HATTER & DONOVAN, LLP 4 5 Attorneys for SUFFOLK COUNTY 6 170 Old Country Road 7 Mineola, New York 11501 8 9 BY: (NOT PRESENT) 10 11 SUFFOLK COUNTY DEPARTMENT OF LAW 12 13 Attorneys for the County 14 100 Veterans Memorial Highway 15 Hauppauge, New York 11788 16 17 BY: CHRIS TERMINI, ESQ. 18 19 ALSO PRESENT: 20 JORDAN MUMMERT - LEGAL VIDEO SPECIALIST 21 FRANK FIORILLO 22 KEVIN LAMM 23 JOE NOFI - A.M. SESSION ONLY 24 25</p>

<p style="text-align: right;">Page 306</p> <p>1 GEORGE HESSE</p> <p>2 IT IS HEREBY STIPULATED AND AGREED by</p> <p>3 and between the attorneys for the respective</p> <p>4 parties herein, that filing and sealing and</p> <p>5 the same are hereby waived.</p> <p>6 IT IS FURTHER STIPULATED AND AGREED</p> <p>7 that all objections, except as to the form</p> <p>8 of the question, shall be reserved to the</p> <p>9 time of the trial.</p> <p>10 IT IS FURTHER STIPULATED AND AGREED</p> <p>11 that the within deposition may be sworn to</p> <p>12 and signed before any officer authorized to</p> <p>13 administer an oath, with the same force and</p> <p>14 effect as if signed and sworn to before the</p> <p>15 Court.</p> <p>16 - o0o -</p>	<p style="text-align: right;">Page 308</p> <p>1 GEORGE HESSE</p> <p>2 MR. GOODSTADT: Andrew Goodstadt, 10:28:20AM</p> <p>3 Thompson, Wigdor & Gilly, on behalf of the 10:28:25AM</p> <p>4 plaintiffs. 10:28:28AM</p> <p>5 MR. CONNOLLY: Kevin W. Connolly of 10:28:28AM</p> <p>6 Marks, O'Neill, O'Brien & Courtney, on 10:28:29AM</p> <p>7 behalf of the Defendant Hesse. 10:28:31AM</p> <p>8 MR. NOVIKOFF: On behalf of the 10:28:33AM</p> <p>9 village defendants, Ken Novikoff, and with 10:28:33AM</p> <p>10 me is Michael Schnepfer, Rivkin Radler. 10:28:35AM</p> <p>11 MR. TERMINI: And for Suffolk County 10:28:39AM</p> <p>12 and the Suffolk County defendants, Assistant 10:28:40AM</p> <p>13 County Attorney Chris P. Termini. 10:28:41AM</p> <p>14 MR. NOVIKOFF: Andrew, same stips as 10:28:55AM</p> <p>15 in every other deposition? 10:28:57AM</p> <p>16 MR. GOODSTADT: Yes. 10:28:59AM</p> <p>17 MR. NOVIKOFF: And same agreement with 10:29:01AM</p> <p>18 regard to the phrase of rehire versus 10:29:02AM</p> <p>19 termination in your questioning and my 10:29:04AM</p> <p>20 questioning? 10:29:06AM</p> <p>21 MR. GOODSTADT: Until we establish 10:29:08AM</p> <p>22 something different possibly. 10:29:09AM</p> <p>23 MR. NOVIKOFF: Yes. 10:29:10AM</p> <p>24 MR. CONNOLLY: And objection by one 10:29:13AM</p> <p>25 counsel is an objection by all? 10:29:15AM</p>
<p style="text-align: right;">Page 307</p> <p>1 GEORGE HESSE</p> <p>2 GEORGE HESSE,</p> <p>3 Called as a witness herein, having</p> <p>4 first been duly sworn, was examined and</p> <p>5 testified as follows:</p> <p>6 BY THE REPORTER:</p> <p>7 Q Please state your name and address for</p> <p>8 the record.</p> <p>9 A George Hesse, 623 Bay Walk, P.O. Box</p> <p>10 425, Ocean Beach, New York 11770.</p> <p>11 THE VIDEOGRAPHER: This is the start 10:27:46AM</p> <p>12 of the tape labeled Number 1 of the 10:27:47AM</p> <p>13 continuation of the videotaped deposition of 10:27:49AM</p> <p>14 George Hesse in the matter Carter, Fiorillo 10:27:52AM</p> <p>15 versus Incorporated Village of Ocean Beach. 10:27:56AM</p> <p>16 This deposition is being held at 92006 10:28:00AM</p> <p>17 RexCorp Plaza in Uniondale, New York on 10:28:06AM</p> <p>18 June 16th, 2009, at approximately 10:28:11AM</p> <p>19 10:30 a.m. 10:28:12AM</p> <p>20 My name is Jordan Mummert from TSG 10:28:13AM</p> <p>21 Reporting, Inc. I'm the legal video 10:28:16AM</p> <p>22 specialist. The court reporter is Judi 10:28:18AM</p> <p>23 Johnson, in association with TGS Reporting. 10:28:19AM</p> <p>24 Would counsel please introduce 10:28:20AM</p> <p>25 yourself. 10:28:20AM</p>	<p style="text-align: right;">Page 309</p> <p>1 GEORGE HESSE</p> <p>2 MR. NOVIKOFF: Sure. I'm fine with 10:29:18AM</p> <p>3 that. 10:29:19AM</p> <p>4 Are you fine with that? 10:29:20AM</p> <p>5 MR. GOODSTADT: Yeah, I'm fine with 10:29:21AM</p> <p>6 that. All objections other than as to form 10:29:22AM</p> <p>7 are preserved. 10:29:26AM</p> <p>8 EXAMINATION 10:29:27AM</p> <p>9 BY MR. GOODSTADT: 10:29:28AM</p> <p>10 Q Good morning, Mr. Hesse. 10:29:29AM</p> <p>11 A Good morning. 10:29:30AM</p> <p>12 Q Thank you for returning. 10:29:31AM</p> <p>13 I just want to remind you that you are 10:29:32AM</p> <p>14 under oath and that you're sworn to tell the 10:29:33AM</p> <p>15 truth, and failure to do so can result in some 10:29:34AM</p> <p>16 criminal sanctions. 10:29:36AM</p> <p>17 Do you understand that? 10:29:36AM</p> <p>18 A I do. 10:29:37AM</p> <p>19 Q Between the first day of your 10:29:38AM</p> <p>20 deposition on June 3rd and today, did you review 10:29:41AM</p> <p>21 the transcript of your first deposition? 10:29:44AM</p> <p>22 A No. 10:29:47AM</p> <p>23 Q Did you review any excerpts of your 10:29:47AM</p> <p>24 transcript -- 10:29:48AM</p> <p>25 A No. 10:29:50AM</p>

2 (Pages 306 to 309)

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1 GEORGE HESSE

2 Q -- of your first deposition? 10:29:50AM

3 I just want to remind you to let me 10:29:52AM

4 finish my question before you answers, and I'll 10:29:54AM

5 let you finish your answer. Okay? 10:29:56AM

6 A Yes. 10:29:56AM

7 Q Did you do anything to prepare for 10:29:57AM

8 today's deposition? 10:29:58AM

9 A Yes. 10:30:00AM

10 Q What did you do to prepare for today's 10:30:00AM

11 deposition? 10:30:03AM

12 A I met with my attorney, Kevin 10:30:03AM

13 Connolly, yesterday. 10:30:05AM

14 Q For how long? 10:30:07AM

15 A Maybe four hours. 10:30:09AM

16 Q Where did you meet with him? 10:30:10AM

17 A In Westchester -- Elmsford, at his 10:30:12AM

18 office. 10:30:14AM

19 Q And who was present during that 10:30:15AM

20 meeting? 10:30:17AM

21 A Just he and I. 10:30:17AM

22 Q Did you review any documents during 10:30:18AM

23 that meeting? 10:30:21AM

24 A Yes. 10:30:23AM

25 Q How many documents did you review? 10:30:24AM

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1 GEORGE HESSE

2 A Maybe five. 10:30:28AM

3 Q Which ones? 10:30:29AM

4 A They pertained to an incident that 10:30:31AM

5 took place October 31st of 2004 that dealt 10:30:33AM

6 with -- we all call the Halloween incident. 10:30:37AM

7 There may have been a couple of statements, a 10:30:43AM

8 few statements. 10:30:46AM

9 Q Any other documents other than for the 10:30:47AM

10 statements from the Halloween incident that you 10:30:50AM

11 reviewed in preparation for today's deposition? 10:30:53AM

12 A No. 10:30:54AM

13 Q Did you take the sergeant's test on 10:30:55AM

14 June 14th? 10:30:57AM

15 A Yes, I did. 10:30:58AM

16 Q And when do you find out what your 10:30:59AM

17 score is, whether you passed or failed? 10:31:01AM

18 A I'm not really sure. Maybe November. 10:31:04AM

19 Q So you don't know as of today whether 10:31:07AM

20 you passed or failed? 10:31:08AM

21 A No. 10:31:10AM

22 Q During your employment at Ocean Beach, 10:31:10AM

23 have you received any written performance 10:31:12AM

24 evaluations? 10:31:14AM

25 A Have I received any? 10:31:16AM

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1 GEORGE HESSE

2 Q Yes. 10:31:17AM

3 MR. NOVIKOFF: Objection. 10:31:18AM

4 Has he seen them or is he aware that 10:31:19AM

5 he's gotten any? 10:31:21AM

6 BY MR. GOODSTADT: 10:31:23AM

7 Q Well, why don't we start with have you 10:31:23AM

8 seen any written performance evaluations. 10:31:25AM

9 A For myself, no. 10:31:28AM

10 Q Have you ever -- are you aware any of 10:31:30AM

11 performance evaluations that have ever been 10:31:34AM

12 prepared for you? 10:31:36AM

13 A No. 10:31:37AM

14 MR. GOODSTADT: Just mark this. 10:31:41AM

15 (Whereupon, Bates document 4547-488 10:31:43AM

16 was marked as Plaintiff's Exhibit 8 for 10:31:43AM

17 identification, as of this date.) 10:31:43AM

18 MR. GOODSTADT: I've placed in front 10:32:19AM

19 of Mr. Hesse what's been marked as Hesse 8. 10:32:21AM

20 It is a two-page exhibit bearing Bates 10:32:24AM

21 numbers 4547 and 4548. 10:32:26AM

22 BY MR. GOODSTADT: 10:32:29AM

23 Q Mr. Hesse, have you ever seen this 10:32:30AM

24 document that's been marked as Hesse 8? 10:32:32AM

25 A I've seen the document, but not this 10:32:35AM

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1 GEORGE HESSE

2 particular document. 10:32:37AM

3 Q You've seen the form? 10:32:37AM

4 A I've seen the form, correct. 10:32:39AM

5 Q What's is this form? 10:32:40AM

6 A It's a yearly performance report. 10:32:41AM

7 Q Is this something that you've 10:32:43AM

8 completed for other officers at Ocean Beach? 10:32:45AM

9 A Yes. 10:32:46AM

10 Q What year did you start completing 10:32:47AM

11 these for other officers in Ocean Beach? 10:32:49AM

12 A I started in 2007. 10:32:51AM

13 Q And prior to 2007, do you know whether 10:32:53AM

14 there were any written performance evaluations 10:32:56AM

15 provided to any officers in Ocean Beach? 10:33:00AM

16 A I am unaware of any forms. 10:33:02AM

17 Q Who made the decision to start 10:33:06AM

18 providing officers with yearly performance 10:33:09AM

19 evaluations? 10:33:11AM

20 MR. NOVIKOFF: Objection to form. 10:33:13AM

21 A I did. 10:33:14AM

22 Q And why did you make that decision? 10:33:15AM

23 A Well, in light of recent events, I 10:33:17AM

24 thought it would be good to have some sort of a 10:33:20AM

25 documentation of officers' yearly performance. 10:33:24AM

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1 GEORGE HESSE

2 **Q** What do you mean in light of recent 10:33:29AM

3 events? 10:33:30AM

4 A Of this lawsuit. 10:33:32AM

5 **Q** Does Ocean Beach have a policy with 10:33:36AM

6 respect to written performance evaluations? 10:33:38AM

7 MR. NOVIKOFF: Objection. 10:33:42AM

8 A You know, I believe something just 10:33:45AM

9 came up recently about doing yearly performance 10:33:47AM

10 reports for every employee in the village. I 10:33:53AM

11 just received a copy of a new form that the 10:33:56AM

12 village would like to use. 10:33:59AM

13 **Q** When did you receive that? 10:34:01AM

14 A I believe last week. 10:34:02AM

15 **Q** Who did you receive it from? 10:34:05AM

16 A Maryanne Minerva. 10:34:06AM

17 **Q** Other than for the form that you 10:34:11AM

18 received, do you know whether there's any 10:34:12AM

19 policy -- strike that. 10:34:14AM

20 Between 2000 and 2006, do you know 10:34:16AM

21 whether there was any policy in Ocean Beach with 10:34:19AM

22 respect to written performance evaluations? 10:34:21AM

23 MR. NOVIKOFF: Objection. 10:34:25AM

24 A None that I'm aware of. 10:34:26AM

25 **Q** Do you know whether Hesse 8, which 10:34:28AM

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1 GEORGE HESSE

2 appears to be a yearly performance report for 10:34:30AM

3 you, do you know whether that was ever 10:34:33AM

4 completed? 10:34:35AM

5 A I don't think so, no. 10:34:36AM

6 **Q** Do you know who created this Hesse 8 10:34:37AM

7 that has your name and the year 2007 on there? 10:34:40AM

8 A Yes. 10:34:42AM

9 **Q** Who created that? 10:34:43AM

10 A Paul Trosco. 10:34:44AM

11 **Q** Did he create them for all the 10:34:49AM

12 officers for '07? 10:34:51AM

13 MR. NOVIKOFF: Objection. 10:34:53AM

14 A Yes. 10:34:53AM

15 MR. CONNOLLY: By "create," do you 10:35:01AM

16 mean fill in the officers' names? 10:35:01AM

17 MR. GOODSTADT: The names, exactly. 10:35:04AM

18 BY MR. GOODSTADT: 10:35:06AM

19 **Q** Who actually created this form, if you 10:35:06AM

20 know? 10:35:10AM

21 A Paul Trosco. 10:35:10AM

22 **Q** Was that your suggestion, that he 10:35:13AM

23 create a form? 10:35:14AM

24 A Yes. 10:35:15AM

25 **Q** And who actually filled out the 10:35:21AM

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1 GEORGE HESSE

2 evaluations for each of the officers in '07? 10:35:24AM

3 A I did. 10:35:27AM

4 **Q** Did anyone else have any input? 10:35:28AM

5 A No. 10:35:31AM

6 MR. GOODSTADT: Can you mark this. 10:36:04AM

7 (Whereupon, Bates document 8189 and 10:36:06AM

8 5326 was marked as Plaintiff's Exhibit 9 for 10:36:06AM

9 identification, as of this date.) 10:36:06AM

10 MR. GOODSTADT: I've placed in front 10:36:46AM

11 of Mr. Hesse what's now been marked as 10:36:46AM

12 Hesse 9. It is a two-page exhibit, bearing 10:36:49AM

13 Bates numbers 8189 and 5326. And I 10:36:53AM

14 represent these are not consecutively 10:36:57AM

15 paginated, and they appear to be two 10:37:00AM

16 separate performance evaluations, but I've 10:37:02AM

17 marked as a single exhibit. 10:37:04AM

18 MR. NOVIKOFF: One is G. Bosetti and 10:37:06AM

19 the other one is Kevin Nowaski? 10:37:08AM

20 MR. GOODSTADT: Yes. 10:37:14AM

21 BY MR. GOODSTADT: 10:37:16AM

22 **Q** Mr. Hesse, do you recognize the 10:37:16AM

23 documents that have been marked as Hesse 9? 10:37:18AM

24 A Yes. 10:37:21AM

25 **Q** And what are these documents? 10:37:21AM

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1 GEORGE HESSE

2 A Yearly performance reports for Gary 10:37:23AM

3 Bosetti and Kevin Nowaski. 10:37:27AM

4 **Q** If you look at the first page of 10:37:32AM

5 Hesse 9, 8189. 10:37:32AM

6 A Yes. 10:37:35AM

7 **Q** Is this your handwriting on the 10:37:36AM

8 document? 10:37:38AM

9 A Yes. 10:37:38AM

10 **Q** Is there anybody else's handwriting on 10:37:38AM

11 the document or is it all yours? 10:37:41AM

12 A It is all mine. 10:37:43AM

13 **Q** And if you look at the bottom, it says 10:37:43AM

14 "supervisor's signature." Is that your 10:37:46AM

15 signature? 10:37:48AM

16 A That is correct. 10:37:49AM

17 **Q** And it's dated 1-31-08. 10:37:49AM

18 Do you see that? 10:37:52AM

19 A Yes. 10:37:53AM

20 **Q** Is that the date that you completed 10:37:53AM

21 this? 10:37:54AM

22 A Okay. 10:37:55AM

23 **Q** What was your title at that time? 10:37:55AM

24 MR. NOVIKOFF: Objection. 10:37:57AM

25 A Deputy chief of police. 10:38:01AM

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1 GEORGE HESSE

2 **Q** And again, just so the record is 10:38:06AM

3 clear, by that time, you had not passed your 10:38:08AM

4 sergeant's test or your chief's test? 10:38:11AM

5 MR. NOVIKOFF: Objection. 10:38:15AM

6 A That's correct. 10:38:16AM

7 **Q** If you look up at the top, it's Gary 10:38:16AM

8 Bosetti. 10:38:19AM

9 Do you see that? 10:38:19AM

10 A Yes, sir. 10:38:20AM

11 **Q** And what was Mr. Bosetti's position in 10:38:20AM

12 the department at that time? 10:38:21AM

13 A Part-time seasonal police officer. 10:38:23AM

14 **Q** And if you look under the -- on the 10:38:26AM

15 first set of lines that has your handwriting on 10:38:30AM

16 it, the second line says, "Needs to write more 10:38:32AM

17 summons." 10:38:36AM

18 Do you see that? 10:38:37AM

19 A Yes. 10:38:37AM

20 **Q** What did you mean by that? 10:38:38AM

21 A I think he only wrote two for the 10:38:39AM

22 year, and I thought -- I expect him to write 10:38:42AM

23 more. 10:38:44AM

24 **Q** Did you ever tell -- other than for 10:38:45AM

25 this written evaluation, did you ever tell the 10:38:46AM

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1 GEORGE HESSE

2 officers in Ocean Beach that they need to write 10:38:49AM

3 more summons? 10:38:52AM

4 MR. NOVIKOFF: Objection to form. 10:38:54AM

5 A Yes. 10:38:55AM

6 **Q** Do you know whether Chief Paradiso 10:38:55AM

7 ever told the officers at any time between 2000 10:38:58AM

8 and 2006 that they need to write more summons? 10:39:01AM

9 A I don't know. 10:39:04AM

10 **Q** You never heard him say that? 10:39:04AM

11 A I don't recall. 10:39:06AM

12 **Q** Do you recall ever being in a meeting 10:39:08AM

13 where the chief put up on a board the number of 10:39:09AM

14 summons that people wrote? 10:39:12AM

15 A I don't recall that. 10:39:15AM

16 **Q** If you look at the second page of this 10:39:27AM

17 exhibit, 5226. 10:39:29AM

18 Do you see that? 10:39:32AM

19 A Yes. 10:39:32AM

20 **Q** Is this your handwriting again on this 10:39:33AM

21 document? 10:39:34AM

22 A Yes. 10:39:35AM

23 **Q** And that's your signature under 10:39:35AM

24 "supervisor's signature"? 10:39:36AM

25 A Yes. 10:39:38AM

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1 GEORGE HESSE

2 **Q** And again, you're telling Mr. Nowaski 10:39:38AM

3 that he needs to write more summons as well, 10:39:42AM

4 correct? 10:39:45AM

5 A Yes. 10:39:45AM

6 **Q** Was that a problem in the department, 10:39:46AM

7 that officers weren't writing enough summonses? 10:39:47AM

8 MR. NOVIKOFF: Objection. Form. 10:39:50AM

9 A I wouldn't say it was a problem, but I 10:39:51AM

10 thought guys needed to step up some of their 10:39:54AM

11 work. 10:39:56AM

12 **Q** And what was Mr. Nowaski's position in 10:39:57AM

13 2007? 10:40:01AM

14 A Part-time seasonal police officer. 10:40:01AM

15 **Q** Did you actually deliver these reports 10:40:03AM

16 to the different officers -- strike that. 10:40:06AM

17 Did you actually deliver Gary 10:40:09AM

18 Bosetti's report to him? 10:40:11AM

19 A I don't -- what do you mean by 10:40:16AM

20 "deliver"? 10:40:18AM

21 **Q** Actually sit down, go over it him, let 10:40:18AM

22 him see a copy of it, discuss it with him. 10:40:22AM

23 A No. 10:40:25AM

24 **Q** Did he ever actually ever see a copy 10:40:25AM

25 of this? 10:40:27AM

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1 GEORGE HESSE

2 A I don't know. 10:40:27AM

3 **Q** So you never showed him a copy of it? 10:40:28AM

4 A I really -- I don't recall if I did. 10:40:30AM

5 **Q** What did you do with this after you 10:40:32AM

6 filled it out? 10:40:34AM

7 A It went right into their employee 10:40:35AM

8 packets, their folders. 10:40:37AM

9 **Q** Personnel files? 10:40:40AM

10 A Yes. 10:40:40AM

11 **Q** How about Mr. Nowaski, did you deliver 10:40:42AM

12 a copy of this to Mr. Nowaski? 10:40:44AM

13 A No. 10:40:46AM

14 **Q** Did you deliver a copy of the annual 10:40:47AM

15 reports to any of the officers in '07? 10:40:49AM

16 A I don't recall if I did. 10:40:53AM

17 **Q** Did you ever receive an employee 10:40:57AM

18 handbook at Ocean Beach? 10:40:59AM

19 A I did, yes. 10:41:01AM

20 **Q** When did you receive it? 10:41:03AM

21 MR. NOVIKOFF: Objection. Form. 10:41:05AM

22 A Officially, in -- I'd like to say 10:41:14AM

23 '97ish. 10:41:22AM

24 **Q** What do you mean by officially? 10:41:24AM

25 A I believe it was a document that was 10:41:28AM

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<p>1 GEORGE HESSE</p> <p>2 formulated by someone in the village and it was 10:41:28AM</p> <p>3 floating around for a while. It was never 10:41:28AM</p> <p>4 officially approved. And then one day it just 10:41:32AM</p> <p>5 kind of showed up. I still don't know if it was 10:41:35AM</p> <p>6 approved. And to tell you, to this date, I 10:41:38AM</p> <p>7 don't think it was approved until somewhere in 10:41:40AM</p> <p>8 early 2000, 2001, '2. 10:41:43AM</p> <p>9 Q Approved by who? 10:41:46AM</p> <p>10 A By the village board. 10:41:47AM</p> <p>11 Q The board actually voted on it, 10:41:49AM</p> <p>12 approved it somewhere in 2000, 2002? 10:41:51AM</p> <p>13 A I'm guessing. I don't recall. 10:41:53AM</p> <p>14 MR. GOODSTADT: Let's mark this. 10:41:58AM</p> <p>15 (Whereupon, Bates document 1-25 was 10:41:59AM</p> <p>16 marked as Plaintiff's Exhibit 10 for 10:41:59AM</p> <p>17 identification, as of this date.) 10:41:59AM</p> <p>18 MR. GOODSTADT: I've placed in front 10:42:34AM</p> <p>19 of Mr. Hesse what's been marked as Hesse 10. 10:42:35AM</p> <p>20 It is a multiple-page exhibit bearing Bates 10:42:37AM</p> <p>21 Numbers 1 through 25. (Handing.) 10:42:41AM</p> <p>22 BY MR. GOODSTADT: 10:42:45AM</p> <p>23 Q Mr. Hesse, do you recognize this 10:42:46AM</p> <p>24 document? 10:42:51AM</p> <p>25 A Yes. 10:42:51AM</p>	<p>1 GEORGE HESSE</p> <p>2 A The -- I believe Maryanne Minerva. 10:43:33AM</p> <p>3 Q Do you know whether the policies in 10:43:37AM</p> <p>4 this handbook covered part-time or seasonal 10:43:38AM</p> <p>5 employees? 10:43:41AM</p> <p>6 A I think very vaguely. I'd have to 10:43:41AM</p> <p>7 read through it. 10:43:43AM</p> <p>8 Q You don't know one way or the other, 10:43:44AM</p> <p>9 sitting here? 10:43:45AM</p> <p>10 MR. NOVIKOFF: Objection. Asked and 10:43:48AM</p> <p>11 answered. 10:43:50AM</p> <p>12 A Right now, no. 10:43:50AM</p> <p>13 Q If you turn to Page 5 -- it's Page 5 10:43:55AM</p> <p>14 of the book, but it's Bates numbered 9. 10:43:59AM</p> <p>15 A (Witness complies.) Uh-huh. 10:44:02AM</p> <p>16 Okay. 10:44:04AM</p> <p>17 Q Do you have that page? 10:44:08AM</p> <p>18 A Yes. 10:44:09AM</p> <p>19 Q Do you see up top where it says 10:44:10AM</p> <p>20 "unacceptable job performance/disciplinary 10:44:11AM</p> <p>21 action"? 10:44:15AM</p> <p>22 A Yes, I do. 10:44:16AM</p> <p>23 MR. NOVIKOFF: Are we on Page 5? 10:44:16AM</p> <p>24 MR. GOODSTADT: Bates stamped 9, but 10:44:19AM</p> <p>25 it's Page 5 of the book. 10:44:20AM</p>
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<p>1 GEORGE HESSE</p> <p>2 Q And is this the handbook that you 10:42:52AM</p> <p>3 testified that you received? 10:42:53AM</p> <p>4 A It appears to be. 10:42:54AM</p> <p>5 Q Do you know whether this handbook was 10:42:56AM</p> <p>6 distributed to all officers in Ocean Beach? 10:42:58AM</p> <p>7 MR. NOVIKOFF: Objection. 10:43:01AM</p> <p>8 A I don't believe so. 10:43:05AM</p> <p>9 Q Do you know if it was distributed to 10:43:05AM</p> <p>10 any officers in Ocean Beach? 10:43:06AM</p> <p>11 MR. NOVIKOFF: Objection. 10:43:08AM</p> <p>12 A I believe it was only distributed to 10:43:09AM</p> <p>13 full-time persons of the village. 10:43:10AM</p> <p>14 Q So it's your understanding that it was 10:43:15AM</p> <p>15 not distributed to any of the part-time 10:43:17AM</p> <p>16 officers? 10:43:19AM</p> <p>17 A To the best of my recollection, no. 10:43:20AM</p> <p>18 Q Or any of the seasonal officers? 10:43:22AM</p> <p>19 A No. 10:43:23AM</p> <p>20 Q How come? 10:43:24AM</p> <p>21 MR. CONNOLLY: Objection. 10:43:25AM</p> <p>22 MR. NOVIKOFF: Objection. 10:43:26AM</p> <p>23 A I don't know. 10:43:27AM</p> <p>24 Q Who distributed it to the full-time 10:43:31AM</p> <p>25 officers? 10:43:32AM</p>	<p>1 GEORGE HESSE</p> <p>2 MR. NOVIKOFF: Bates stamped 9, but 10:44:23AM</p> <p>3 Page 5 of the book? Okay. I got it. 10:44:28AM</p> <p>4 BY MR. GOODSTADT: 10:44:30AM</p> <p>5 Q Now, do you see the second paragraph 10:44:30AM</p> <p>6 down, it goes through a progressive disciplinary 10:44:31AM</p> <p>7 system? 10:44:36AM</p> <p>8 A Yes. 10:44:38AM</p> <p>9 Q Says, "It upholds and maintains a 10:44:38AM</p> <p>10 progressive disciplinary system which may 10:44:43AM</p> <p>11 include all or part of the following steps 10:44:43AM</p> <p>12 unless otherwise covered by law." 10:44:46AM</p> <p>13 Do you see that? 10:44:49AM</p> <p>14 A Yes. 10:44:50AM</p> <p>15 Q Did you implement this disciplinary 10:44:50AM</p> <p>16 system? 10:44:52AM</p> <p>17 MR. NOVIKOFF: Objection. 10:44:53AM</p> <p>18 A No. 10:44:53AM</p> <p>19 Q Do you know whether anyone in the 10:44:54AM</p> <p>20 police department ever implemented this 10:44:56AM</p> <p>21 disciplinary system? 10:45:00AM</p> <p>22 A I am unaware. 10:45:01AM</p> <p>23 Q So you don't know one way or the 10:45:02AM</p> <p>24 other? 10:45:03AM</p> <p>25 A No. 10:45:05AM</p>

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1 GEORGE HESSE

2 Q If you look at Page 6 of the book, 10:45:05AM

3 Bates stamp 10, do you see the employee 10:45:08AM

4 performance appraisals paragraph? It's like 10:45:12AM

5 halfway down the page. 10:45:15AM

6 Do you see that? 10:45:16AM

7 A Yes. 10:45:19AM

8 Q Okay. It says, "Newly hired employees 10:45:20AM

9 may receive performance appraisals after 30 10:45:22AM

10 days." 10:45:26AM

11 Do you see that? 10:45:26AM

12 A Yes. 10:45:27AM

13 Q Did you ever administer performance 10:45:27AM

14 appraisals to any of your newly hired officers 10:45:30AM

15 after 30 days? 10:45:33AM

16 MR. NOVIKOFF: Objection. Foundation. 10:45:35AM

17 A No. 10:45:37AM

18 MR. NOVIKOFF: Form. 10:45:38AM

19 BY MR. GOODSTADT: 10:45:38AM

20 Q Do you know whether any performance 10:45:39AM

21 appraisals were ever given to newly hired 10:45:41AM

22 officers after 30 days? 10:45:44AM

23 MR. NOVIKOFF: Form. 10:45:46AM

24 A No. 10:45:46AM

25 Q And it says "and a more formal 10:45:47AM

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1 GEORGE HESSE

2 evaluation at the end of six months." 10:45:49AM

3 Do you see that? 10:45:52AM

4 A Yes. 10:45:52AM

5 Q Did you ever give a performance 10:45:53AM

6 appraisal to any of the officers at the end of 10:45:55AM

7 six months? 10:45:58AM

8 MR. NOVIKOFF: Objection. Foundation. 10:46:00AM

9 A No. 10:46:01AM

10 Q Do you know whether any officers were 10:46:01AM

11 ever any performance appraisals at the end of 10:46:02AM

12 six months? 10:46:06AM

13 MR. NOVIKOFF: Objection. Foundation. 10:46:07AM

14 A No. 10:46:08AM

15 Q The last sentence says, "Thereafter, 10:46:09AM

16 all employees may receive a performance 10:46:11AM

17 appraisal annually." 10:46:13AM

18 Do you see that? 10:46:15AM

19 A Yes. 10:46:16AM

20 Q And to your knowledge, that had not 10:46:17AM

21 been implemented until -- in the police 10:46:20AM

22 department until 2007; is that correct? 10:46:22AM

23 MR. NOVIKOFF: Objection. Form. 10:46:26AM

24 Foundation. 10:46:27AM

25 A Correct. 10:46:28AM

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1 GEORGE HESSE

2 Q If you look at -- strike that. 10:46:33AM

3 Before you look at the next section 10:46:36AM

4 I'll ask you to look at. 10:46:37AM

5 Did Ocean Beach Police Department or 10:46:39AM

6 the village have a policy with respect to 10:46:41AM

7 officers drinking on duty? 10:46:45AM

8 MR. NOVIKOFF: Form. Foundation. 10:46:47AM

9 A Repeat that question. 10:46:48AM

10 Q Yeah. Did the Ocean Beach Police 10:46:50AM

11 Department or the village have any policy with 10:46:51AM

12 respect to officers drinking while on duty? 10:46:55AM

13 MR. NOVIKOFF: Objection. Same. 10:46:58AM

14 A No policy. 10:46:59AM

15 Q No policy? 10:47:00AM

16 A Nothing writing -- in writing. 10:47:01AM

17 Q Do you know whether the police 10:47:05AM

18 department had any policy -- the police 10:47:06AM

19 department or the village had any policy with 10:47:08AM

20 respect to off-duty police officers drinking in 10:47:11AM

21 Ocean Beach? 10:47:16AM

22 MR. NOVIKOFF: Objection. 10:47:16AM

23 A Nothing formal. 10:47:17AM

24 Q So you don't recall any directives 10:47:19AM

25 ever being posted with respect to officers who 10:47:20AM

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1 GEORGE HESSE

2 were off duty drinking in Ocean Beach? 10:47:24AM

3 A I don't recall. 10:47:27AM

4 Q Do you know whether the beach had or 10:47:32AM

5 the department had any policy with respect to 10:47:34AM

6 officers who show up to work under the influence 10:47:40AM

7 of alcohol? 10:47:42AM

8 A There was no written policies. 10:47:44AM

9 Q Okay. Do you know whether there was 10:47:45AM

10 ever any verbal policies with respect to 10:47:49AM

11 officers drinking on duty? 10:47:51AM

12 MR. NOVIKOFF: Note my objection. 10:47:53AM

13 A Well, I'm sure it would be frowned 10:47:56AM

14 upon if somebody showed up intoxicated. I don't 10:47:59AM

15 think that was ever an issue. I believe 10:48:03AM

16 Paradiso, Chief Paradiso might have put out 10:48:06AM

17 there that he referred -- preferred that guys 10:48:08AM

18 didn't drink in the village off duty. 10:48:14AM

19 Q When did he put that out there? 10:48:16AM

20 A I don't recall. You know, that was 10:48:17AM

21 like a give-and-take type thing over the many 10:48:19AM

22 years I've been there. 10:48:21AM

23 Q When do you recall him actually 10:48:23AM

24 putting it out there, though, what years? 10:48:25AM

25 A I don't recall which years. 10:48:28AM

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1 GEORGE HESSE

2 Q When you say give and take, what did 10:48:29AM

3 you mean by that? 10:48:30AM

4 A When I first started there, there was 10:48:34AM

5 a policy that we were not supposed to be 10:48:36AM

6 drinking in the bars after we got off duty; but 10:48:38AM

7 then, I guess Ed Paradiso had lightened up on 10:48:45AM

8 that, and that was that. 10:48:49AM

9 Q What do you mean by Ed Paradiso 10:48:52AM

10 lightened up on that? 10:48:53AM

11 A You know, because guys would go out 10:48:54AM

12 for drinks after work. You know, we were a 10:48:56AM

13 little more mature, a little more adult than 10:48:59AM

14 police officers that they had there in the past 10:49:00AM

15 that worked there that couldn't control 10:49:01AM

16 themselves. And, you know, he would join us 10:49:03AM

17 sometimes, so... 10:49:07AM

18 Q When did he lighten up on it? 10:49:09AM

19 A Probably around '95. 10:49:12AM

20 Q Did he ever get harder on that policy 10:49:16AM

21 and reinstate it? 10:49:21AM

22 A Not that I recall. 10:49:23AM

23 Q So from '95 until his last day of 10:49:25AM

24 employment at the beach, you don't recall him 10:49:28AM

25 ever verbally telling police officers that he 10:49:30AM

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1 GEORGE HESSE

2 preferred that they not go out and drink in the 10:49:35AM

3 bars off duty? 10:49:38AM

4 MR. NOVIKOFF: Objection. Form. 10:49:39AM

5 A I don't recall any. 10:49:40AM

6 Q Do you recall Paradiso ever expressing 10:49:41AM

7 that preference or policy when the Bosettis were 10:49:47AM

8 working? 10:49:50AM

9 MR. NOVIKOFF: Objection. 10:49:52AM

10 A I don't recall that. 10:49:53AM

11 Q Did you ever hear him tell the 10:49:54AM

12 Bosettis that they shouldn't be going drinking 10:49:56AM

13 in bars in Ocean Beach when they're off duty? 10:49:59AM

14 A I've never heard him tell them that. 10:50:02AM

15 Q Did you ever tell the Bosettis that? 10:50:04AM

16 A I don't recall if I did. 10:50:06AM

17 Q Did you ever have a policy with 10:50:07AM

18 respect to -- a verbal policy with respect to 10:50:08AM

19 officers drinking in Ocean Beach while they're 10:50:12AM

20 off duty? 10:50:15AM

21 A I never had a policy, no. 10:50:16AM

22 Q Did you ever have a policy with 10:50:18AM

23 respect to officers drinking while they're on 10:50:20AM

24 duty, a verbal policy? 10:50:23AM

25 MR. NOVIKOFF: Objection. 10:50:25AM

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1 GEORGE HESSE

2 A I would've liked to think that they 10:50:31AM

3 wouldn't do that. I don't know of any policy 10:50:33AM

4 that was out there. 10:50:36AM

5 Q Did you ever speak to anybody or 10:50:37AM

6 discuss that issue with anybody, any officers? 10:50:39AM

7 A About drinking on duty? 10:50:41AM

8 Q Yes. 10:50:43AM

9 A I don't recall any conversation of 10:50:43AM

10 such. 10:50:45AM

11 Q Do you ever recall any directives 10:50:49AM

12 being posted regarding drinking at the bars, 10:50:51AM

13 whether on duty or off duty? 10:50:54AM

14 A I don't recall any policies that were 10:50:56AM

15 posted. 10:50:58AM

16 Q I asked for directive. Are you using 10:51:01AM

17 the term "policy" interchange- -- 10:51:03AM

18 A Policy or directive. I understand 10:51:06AM

19 what you're saying. No, not that I recall any 10:51:06AM

20 being posted. 10:51:08AM

21 Q But just to be clear, those two terms 10:51:09AM

22 are interchangeable, a directive and a policy? 10:51:09AM

23 MR. NOVIKOFF: Objection. 10:51:12AM

24 BY MR. GOODSTADT: 10:51:12AM

25 Q So if I use policy, that's going to 10:51:13AM

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1 GEORGE HESSE

2 cover directive? If I use directly, it will 10:51:15AM

3 cover policy? 10:51:15AM

4 MR. NOVIKOFF: Objection. 10:51:16AM

5 A Actually, they can mean two different 10:51:17AM

6 things. 10:51:19AM

7 Q Did you ever have any alcoholic 10:51:27AM

8 beverages while on duty? 10:51:28AM

9 A No. 10:51:30AM

10 Q Did you ever have any alcoholic 10:51:31AM

11 beverages while in uniform? 10:51:33AM

12 A Yes. 10:51:35AM

13 Q How many times? 10:51:35AM

14 A I'd say in the range of six times. 10:51:44AM

15 Q Where were you during those six times? 10:51:47AM

16 A At least three times in the parade in 10:51:51AM

17 New York City for St. Patty's Day, and I think 10:51:54AM

18 the other three were funerals. 10:51:59AM

19 Q Did you ever have an alcoholic 10:52:05AM

20 beverage in the station? 10:52:07AM

21 A Yes. 10:52:08AM

22 Q While in uniform? 10:52:08AM

23 A No. 10:52:10AM

24 Q While on duty? 10:52:11AM

25 A No. 10:52:12AM

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1 GEORGE HESSE

2 **Q** What alcoholic beverages have you had 10:52:14AM

3 in the station? 10:52:16AM

4 A I've had a beer, and I had something 10:52:17AM

5 called a rocket fuel once or twice. 10:52:22AM

6 **Q** Any other alcoholic beverages that you 10:52:29AM

7 drank in the station? 10:52:32AM

8 A No, not that I recall. 10:52:33AM

9 **Q** Were you in uniform those times in the 10:52:34AM

10 station? 10:52:36AM

11 MR. NOVIKOFF: Objection. Asked and 10:52:36AM

12 answered. 10:52:37AM

13 A No. 10:52:38AM

14 **Q** When did you have the rocket fuels in 10:52:39AM

15 the station? What years were they? 10:52:41AM

16 A 2005, 2004. Maybe 2003. 10:52:47AM

17 **Q** Where did you get the rocket fuels 10:52:55AM

18 from? 10:52:57AM

19 A A bar called CJ's. 10:52:57AM

20 **Q** Did they deliver them? Someone picked 10:53:03AM

21 them up? How did they get to the station? 10:53:05AM

22 A On occasion, sometimes they would just 10:53:09AM

23 deliver them at the end of -- the close of the 10:53:11AM

24 bar. 10:53:13AM

25 **Q** Who would deliver them? 10:53:15AM

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1 GEORGE HESSE

2 A One of the barbacks. 10:53:16AM

3 **Q** What was the name? 10:53:18AM

4 A I believe one of the kids was Brian, 10:53:21AM

5 and another one -- another kid had the name of 10:53:24AM

6 Paul. 10:53:30AM

7 **Q** Paul Conway? 10:53:31AM

8 A If that's his last name. I don't 10:53:33AM

9 know. 10:53:34AM

10 **Q** Do you know Brian's last name? 10:53:36AM

11 A Esop. 10:53:38AM

12 **Q** Did they charge you for the rocket 10:53:43AM

13 fuels? 10:53:45AM

14 A Sometimes. 10:53:45AM

15 **Q** But sometimes they didn't? 10:53:46AM

16 A Right. 10:53:48AM

17 **Q** Who else drank rocket fuels with you 10:53:49AM

18 in the police station? 10:53:51AM

19 A Let's see. I guess when we were 10:53:54AM

20 getting off duty, Dave Gurden. Who else? You 10:53:56AM

21 know, I don't recall anybody else because it 10:54:05AM

22 wasn't a very popular drink. 10:54:08AM

23 **Q** Do you recall Gary Bosetti drinking 10:54:13AM

24 rocket fuel at the station? 10:54:15AM

25 A No, I don't recall any. 10:54:16AM

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1 GEORGE HESSE

2 **Q** How about Rich Bosetti? 10:54:17AM

3 A I don't recall. 10:54:19AM

4 **Q** Ty Bacon? 10:54:20AM

5 A No. 10:54:21AM

6 **Q** No, you don't recall or you definitely 10:54:23AM

7 did not see him? 10:54:25AM

8 A I've never seen him drink. 10:54:26AM

9 **Q** At any point, you've never seen him 10:54:28AM

10 drink? 10:54:30AM

11 A Yeah, you know what, yeah, you're 10:54:30AM

12 right. At a party, I've seen him have a beer or 10:54:32AM

13 something, but not in the station house, no. 10:54:35AM

14 **Q** How about Walter Moeller, did you ever 10:54:37AM

15 see him drink a rocket fuel in the station? 10:54:40AM

16 A No. 10:54:42AM

17 **Q** Did you ever see him drink in the 10:54:43AM

18 station? 10:54:44AM

19 A No. 10:54:44AM

20 **Q** Did you ever see him drink on duty? 10:54:45AM

21 A No. 10:54:47AM

22 **Q** Do you know whether he's ever drank on 10:54:50AM

23 duty? 10:54:52AM

24 A I don't know. 10:54:53AM

25 **Q** Did there ever come a time where 10:54:56AM

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1 GEORGE HESSE

2 Moeller got into a car accident right after 10:54:59AM

3 leaving the beach? 10:55:03AM

4 A Yes. 10:55:04AM

5 **Q** Do you recall what year that was? 10:55:05AM

6 A Was it 2004? No, it couldn't have 10:55:13AM

7 been 2004. Maybe 2006. 10:55:17AM

8 **Q** How long after his tour was the 10:55:27AM

9 accident? 10:55:30AM

10 A Maybe a half hour. 10:55:32AM

11 **Q** And you were called to the scene? 10:55:37AM

12 A I got a phone call, yes. 10:55:39AM

13 **Q** Who called you? 10:55:41AM

14 A It might have been Walter Moeller 10:55:44AM

15 himself. 10:55:46AM

16 **Q** Do you know why he called you? 10:55:47AM

17 A He said he was just in a car accident. 10:55:49AM

18 And he couldn't find his shield; and he had his 10:55:51AM

19 weapon on him, and he was going to the hospital. 10:55:58AM

20 So he wanted me to come down and secure it. 10:56:01AM

21 **Q** So you went -- did you go to the scene 10:56:04AM

22 of the accident? 10:56:05AM

23 A I went right to the scene, yes. 10:56:05AM

24 **Q** Where was the accident? 10:56:07AM

25 A It was at the corner of, I believe, 10:56:09AM

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1 GEORGE HESSE

2 Fifth Avenue and Montauk Highway, in front of 10:56:11AM

3 St. Pat's church. 10:56:15AM

4 **Q Was anyone injured in the accident?** 10:56:16AM

5 A Just him. 10:56:18AM

6 **Q And did you take his weapon from him?** 10:56:19AM

7 A Yes, I did. 10:56:21AM

8 **Q Did you ever find his shield?** 10:56:22AM

9 A Yes, I did. 10:56:24AM

10 **Q Was Walter Moeller drinking prior to** 10:56:26AM

11 **that accident?** 10:56:29AM

12 A No, not that I know of. 10:56:30AM

13 **Q Did you ever see the PCR -- do you** 10:56:32AM

14 **know what a PCR is?** 10:56:34AM

15 A Yes. 10:56:37AM

16 **Q What is a PCR?** 10:56:37AM

17 A A pre-hospital care report. 10:56:40AM

18 **Q Did you ever see the PCR with respect** 10:56:41AM

19 **to that accident?** 10:56:41AM

20 A No. 10:56:42AM

21 **Q So you don't know one way or the other** 10:56:41AM

22 **whether the PCR indicated that he had alcohol on** 10:56:42AM

23 **his breath?** 10:56:44AM

24 A I have no idea. 10:56:45AM

25 **Q Have you ever seen any officers in** 10:57:01AM

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1 GEORGE HESSE

2 **Ocean Beach drink while they're on duty?** 10:57:03AM

3 A No. 10:57:05AM

4 **Q Has anybody ever complained to you** 10:57:10AM

5 **that other officers were drinking while they** 10:57:12AM

6 **were on duty?** 10:57:14AM

7 A Never. 10:57:15AM

8 **Q Is it true that Ed Carter complained** 10:57:20AM

9 **to you that he had to get the cell phone from** 10:57:22AM

10 **the Bosettis in CJ's?** 10:57:26AM

11 A Never. 10:57:28AM

12 **Q Did you ever see Arnold Hardman drink** 10:57:31AM

13 **the rocket fuel?** 10:57:34AM

14 MR. NOVIKOFF: Objection. Asked and 10:57:36AM

15 answered. 10:57:37AM

16 A Arnold Hardman? Not that I recall, 10:57:38AM

17 no. 10:57:40AM

18 **Q Did you ever see Hardman drink while** 10:57:42AM

19 **he was on duty?** 10:57:44AM

20 A Never. 10:57:45AM

21 **Q Would you agree that if officers were** 10:57:50AM

22 **drinking on duty, it would pose a public safety** 10:57:53AM

23 **threat?** 10:57:56AM

24 MR. NOVIKOFF: Objection. 10:57:57AM

25 MR. CONNOLLY: Objection. 10:57:57AM

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1 GEORGE HESSE

2 A I do, in my opinion, yes. 10:57:58AM

3 **Q What public safety threat would it** 10:58:03AM

4 **pose?** 10:58:05AM

5 MR. NOVIKOFF: Objection. 10:58:05AM

6 A It would severely hinder your 10:58:09AM

7 judgment, I think, to many respects on the job. 10:58:12AM

8 **Q It would be a public safety threat if** 10:58:16AM

9 **officers were drinking on duty and they were** 10:58:19AM

10 **carrying a weapon?** 10:58:21AM

11 MR. NOVIKOFF: Objection. 10:58:22AM

12 A Yes. 10:58:23AM

13 **Q Would it pose a public safety threat** 10:58:27AM

14 **if officers on duty were in the bars instead of** 10:58:30AM

15 **patrolling the neighborhood?** 10:58:33AM

16 MR. NOVIKOFF: Objection. How about 10:58:35AM

17 if they were in the bars performing -- 10:58:41AM

18 MR. GOODSTADT: In the bars drinking. 10:58:43AM

19 MR. NOVIKOFF: You didn't ask that. 10:58:45AM

20 In the bars drinking off duty? 10:58:46AM

21 MR. GOODSTADT: No, on duty. 10:58:49AM

22 MR. NOVIKOFF: Oh, okay. 10:58:51AM

23 A You might as well repeat the entire 10:58:52AM

24 question. 10:58:55AM

25 **Q The question is: Do you agree with me** 10:58:55AM

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1 GEORGE HESSE

2 **that it would be a public safety threat if** 10:58:57AM

3 **officers were drinking in the bars while on duty** 10:59:01AM

4 **instead of patrolling the village?** 10:59:02AM

5 MR. NOVIKOFF: Objection. 10:59:03AM

6 A In my opinion, yes. 10:59:03AM

7 **Q Do you think it would -- strike that.** 10:59:10AM

8 **Do you think it undermines police** 10:59:12AM

9 **officers' authority to be drinking off duty in** 10:59:15AM

10 **the bars in Ocean Beach?** 10:59:19AM

11 MR. NOVIKOFF: Objection. 10:59:20AM

12 A Undermines your authority? I don't 10:59:25AM

13 think so, no. 10:59:26AM

14 **Q You don't think there's a public** 10:59:27AM

15 **perception problem if officers off duty are** 10:59:29AM

16 **drinking in the bars that they are required to** 10:59:34AM

17 **patrol on duty?** 10:59:39AM

18 MR. NOVIKOFF: Objection. 10:59:41AM

19 MR. CONNOLLY: Objection. 10:59:41AM

20 A You're asking me to -- 10:59:42AM

21 **Q I'm asking your opinion on that.** 10:59:44AM

22 A Yeah, I don't know. 10:59:46AM

23 MR. NOVIKOFF: Which is pantingly 10:59:49AM

24 irrelevant. 10:59:52AM

25 What was your answer? 10:59:55AM

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<p>1 GEORGE HESSE</p> <p>2 THE WITNESS: I have no idea if it 10:59:56AM</p> <p>3 would. 10:59:57AM</p> <p>4 MR. NOVIKOFF: Me either. 10:59:58AM</p> <p>5 MR. GOODSTADT: Luckily you're not the 11:00:01AM</p> <p>6 witness today. 11:00:02AM</p> <p>7 BY MR. GOODSTADT: 11:00:03AM</p> <p>8 Q Isn't it true that Tommy Snyder 11:00:03AM</p> <p>9 complained to you that the Bosettis took the 11:00:06AM</p> <p>10 cell phone from him and went to the bars while 11:00:08AM</p> <p>11 they were on duty? 11:00:10AM</p> <p>12 MR. NOVIKOFF: Objection. Leading. 11:00:13AM</p> <p>13 A He never complained to me. 11:00:14AM</p> <p>14 Q He never complained to you about 11:00:16AM</p> <p>15 anything or just about that issue? 11:00:19AM</p> <p>16 A Never. 11:00:20AM</p> <p>17 MR. NOVIKOFF: Your question was any 11:00:21AM</p> <p>18 issue -- 11:00:22AM</p> <p>19 MR. GOODSTADT: I was going to ask him 11:00:22AM</p> <p>20 if he meant just about that issue or any 11:00:22AM</p> <p>21 issue. 11:00:22AM</p> <p>22 MR. CONNOLLY: Well, it wasn't 11:00:23AM</p> <p>23 responsive to your question. 11:00:24AM</p> <p>24 MR. GOODSTADT: And that's why I was 11:00:25AM</p> <p>25 asking him to clarify. 11:00:26AM</p>	<p>1 GEORGE HESSE</p> <p>2 complained to him. 11:01:30AM</p> <p>3 MR. NOVIKOFF: Well, then that would 11:01:31AM</p> <p>4 cover everything. Objection to the form. 11:01:31AM</p> <p>5 A I don't recall anything of that nature 11:01:33AM</p> <p>6 at all. 11:01:35AM</p> <p>7 Q Is it true that Frank Fiorillo 11:01:42AM</p> <p>8 complained to you that he had to relieve the 11:01:44AM</p> <p>9 Bosettis on the next tour in the bar? 11:01:46AM</p> <p>10 MR. NOVIKOFF: Objection. Form. 11:01:49AM</p> <p>11 Leading. 11:01:50AM</p> <p>12 A No. 11:01:51AM</p> <p>13 Q Isn't it true that Ed Carter 11:01:54AM</p> <p>14 complained about that as well? 11:01:55AM</p> <p>15 MR. NOVIKOFF: Objection. Form. 11:01:57AM</p> <p>16 A No. 11:01:58AM</p> <p>17 Q Did any of the plaintiffs in this case 11:02:01AM</p> <p>18 ever complain to you about officers drinking in 11:02:03AM</p> <p>19 the bars in Ocean Beach? 11:02:05AM</p> <p>20 MR. NOVIKOFF: Objection. Asked and 11:02:07AM</p> <p>21 answered. 11:02:07AM</p> <p>22 A No. 11:02:09AM</p> <p>23 Q Did Ed Carter ever complain to you 11:02:22AM</p> <p>24 about officers bringing alcohol into the 11:02:24AM</p> <p>25 station? 11:02:26AM</p>
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<p>1 GEORGE HESSE</p> <p>2 A Repeat the question. 11:00:28AM</p> <p>3 Q Sure. 11:00:29AM</p> <p>4 You said he never complained to me. 11:00:31AM</p> <p>5 My question -- my follow-up question was he 11:00:33AM</p> <p>6 never complained to you about that issue or he 11:00:34AM</p> <p>7 never complained to you about anything? 11:00:36AM</p> <p>8 A I gotta say, he's never complained to 11:00:38AM</p> <p>9 me about anything. Specifically that issue. 11:00:40AM</p> <p>10 Q Would you agree with me that if 11:00:50AM</p> <p>11 officers took the police cell phone into a bar 11:00:52AM</p> <p>12 and were not answering the cell phone, that it 11:00:56AM</p> <p>13 would pose a public safety threat? 11:00:59AM</p> <p>14 MR. NOVIKOFF: Objection. 11:01:02AM</p> <p>15 A I could speculate, yeah, it would be 11:01:02AM</p> <p>16 an issue. 11:01:04AM</p> <p>17 Q Is it your testimony that Snyder never 11:01:10AM</p> <p>18 complained to you that there were messages that 11:01:14AM</p> <p>19 went unanswered on the cell phone when the 11:01:17AM</p> <p>20 Bosettis returned the cell phone back to him? 11:01:20AM</p> <p>21 MR. CONNOLLY: Objection. 11:01:23AM</p> <p>22 MR. NOVIKOFF: Objection. You didn't 11:01:23AM</p> <p>23 answer ask him that question, so how could 11:01:25AM</p> <p>24 it be his testimony. 11:01:27AM</p> <p>25 MR. GOODSTADT: He said he never 11:01:28AM</p>	<p>1 GEORGE HESSE</p> <p>2 A No. 11:02:27AM</p> <p>3 Q Did Ed Carter ever complain about 11:02:30AM</p> <p>4 officers drinking rocket fuel in the station? 11:02:32AM</p> <p>5 A No. 11:02:34AM</p> <p>6 Q Did Ed Carter ever complain that he 11:02:34AM</p> <p>7 was required to clean up after officers who were 11:02:36AM</p> <p>8 drinking rocket fuels in the station? 11:02:39AM</p> <p>9 A Never. 11:02:41AM</p> <p>10 Q Did anyone ever complain to you that 11:02:49AM</p> <p>11 officers left dock masters in the station to 11:02:51AM</p> <p>12 cover their shifts while they went out to the 11:02:54AM</p> <p>13 bars? 11:02:57AM</p> <p>14 A Never. 11:02:57AM</p> <p>15 Q Did Joe Nofi complain to you that dock 11:03:09AM</p> <p>16 masters were covering for officers? 11:03:13AM</p> <p>17 A Never. 11:03:15AM</p> <p>18 Q Would you agree with me that it would 11:03:17AM</p> <p>19 be inappropriate for dock masters to be covering 11:03:18AM</p> <p>20 police officers' shifts? 11:03:22AM</p> <p>21 MR. NOVIKOFF: Objection. Form. 11:03:24AM</p> <p>22 MR. CONNOLLY: What do you mean? 11:03:26AM</p> <p>23 Define "shift." 11:03:28AM</p> <p>24 MR. NOVIKOFF: Define "appropriate." 11:03:30AM</p> <p>25</p>

<p style="text-align: right;">Page 346</p> <p>1 GEORGE HESSE</p> <p>2 BY MR. GOODSTADT: 11:03:31AM</p> <p>3 Q To cover for them while they were -- 11:03:32AM</p> <p>4 you know, while they were supposed to be on 11:03:34AM</p> <p>5 duty? 11:03:36AM</p> <p>6 MR. NOVIKOFF: Objection. 11:03:37AM</p> <p>7 A To what respect? You know, a dock 11:03:38AM</p> <p>8 master is not a police officer. He can't cover 11:03:41AM</p> <p>9 the shift. 11:03:44AM</p> <p>10 Q So it would be inappropriate for a 11:03:45AM</p> <p>11 dock master to cover a police shift, right? 11:03:46AM</p> <p>12 A Yeah. 11:03:49AM</p> <p>13 MR. NOVIKOFF: Objection. 11:03:50AM</p> <p>14 BY MR. GOODSTADT: 11:03:50AM</p> <p>15 Q Is it appropriate to dispatch as a 11:04:03AM</p> <p>16 dock master? 11:04:09AM</p> <p>17 A Was it appropriate? 11:04:11AM</p> <p>18 Q Yes. 11:04:12AM</p> <p>19 MR. NOVIKOFF: Objection. 11:04:13AM</p> <p>20 A It was only used in extreme 11:04:15AM</p> <p>21 situations. 11:04:17AM</p> <p>22 Q How about in -- well, what do you mean 11:04:18AM</p> <p>23 by in extreme situations? 11:04:20AM</p> <p>24 A Whereas if we were shorthanded or 11:04:23AM</p> <p>25 something on the street and we had a police 11:04:24AM</p>	<p style="text-align: right;">Page 348</p> <p>1 GEORGE HESSE</p> <p>2 A Just somebody answering the phones. 11:05:08AM</p> <p>3 Q A dock master is trained to dispatch? 11:05:10AM</p> <p>4 A No. 11:05:14AM</p> <p>5 Q A dock master is certified by Civil 11:05:15AM</p> <p>6 Service to be on a dispatch position? 11:05:18AM</p> <p>7 A I don't think there's really a 11:05:22AM</p> <p>8 certification for it, but no. 11:05:23AM</p> <p>9 Q Did Carter complain to you Labor Day 11:05:31AM</p> <p>10 weekend 2005 that officers were drinking in the 11:05:34AM</p> <p>11 bar? 11:05:37AM</p> <p>12 A Did he complain? I don't recall any 11:05:39AM</p> <p>13 complaint, no. 11:05:41AM</p> <p>14 MR. NOVIKOFF: I'm sorry, what 11:05:42AM</p> <p>15 weekend? 11:05:43AM</p> <p>16 MR. GOODSTADT: Labor Day 2005. 11:05:44AM</p> <p>17 MR. NOVIKOFF: Okay. 11:05:47AM</p> <p>18 BY MR. GOODSTADT: 11:05:47AM</p> <p>19 Q Did Kevin Lamm ever complain to you 11:05:52AM</p> <p>20 that officers were drinking in the bar? 11:05:54AM</p> <p>21 MR. NOVIKOFF: Objection. Asked and 11:05:57AM</p> <p>22 answered. 11:05:58AM</p> <p>23 MR. CONNOLLY: Objection. 11:05:58AM</p> <p>24 A No. 11:05:59AM</p> <p>25 Q Did Lamm ever complain to you about 11:05:59AM</p>
<p style="text-align: right;">Page 347</p> <p>1 GEORGE HESSE</p> <p>2 officer sitting on the desk and something, an 11:04:27AM</p> <p>3 incident occurred in the street that required 11:04:29AM</p> <p>4 some extra assistance, we would call the dock 11:04:30AM</p> <p>5 master in to answer the phones. 11:04:33AM</p> <p>6 Q How about outside of that extreme 11:04:35AM</p> <p>7 situation, would it be appropriate for a dock 11:04:37AM</p> <p>8 master to dispatch? 11:04:39AM</p> <p>9 MR. NOVIKOFF: Objection. 11:04:41AM</p> <p>10 A It was used on occasion just so it 11:04:43AM</p> <p>11 could free up a police officer. 11:04:45AM</p> <p>12 Q In case of an emergency? 11:04:47AM</p> <p>13 A Most of the time, yes. 11:04:49AM</p> <p>14 Q How about outside of an emergency? 11:04:51AM</p> <p>15 A Not that I recall any. 11:04:53AM</p> <p>16 Q But I'm asking whether it would be 11:04:54AM</p> <p>17 appropriate -- 11:04:56AM</p> <p>18 MR. NOVIKOFF: Objection. 11:04:56AM</p> <p>19 BY MR. GOODSTADT: 11:04:57AM</p> <p>20 Q -- to have a dock master dispatch 11:04:57AM</p> <p>21 outside of an emergency. 11:04:59AM</p> <p>22 MR. NOVIKOFF: Objection. 11:05:02AM</p> <p>23 A It's tough answering the phones. It 11:05:03AM</p> <p>24 really didn't matter. 11:05:05AM</p> <p>25 Q What do you mean? 11:05:06AM</p>	<p style="text-align: right;">Page 349</p> <p>1 GEORGE HESSE</p> <p>2 officers drinking whether it was in the bars or 11:06:01AM</p> <p>3 the station or anywhere else? 11:06:04AM</p> <p>4 A He never complained to me about that 11:06:05AM</p> <p>5 stuff, no. 11:06:07AM</p> <p>6 Q Did any officers ever drink while off 11:06:11AM</p> <p>7 duty prior to going on shift? 11:06:15AM</p> <p>8 MR. NOVIKOFF: Objection. Foundation. 11:06:18AM</p> <p>9 A I don't know. 11:06:20AM</p> <p>10 Q So you're not aware of any officers 11:06:21AM</p> <p>11 drinking in the bar and then going on the eight 11:06:22AM</p> <p>12 to four? 11:06:24AM</p> <p>13 MR. NOVIKOFF: Note my objection. 11:06:25AM</p> <p>14 A No. 11:06:26AM</p> <p>15 MR. NOVIKOFF: Unless he's present or 11:06:28AM</p> <p>16 was told, I don't know how he would answer 11:06:29AM</p> <p>17 that question. 11:06:31AM</p> <p>18 MR. GOODSTADT: Maybe he was answered 11:06:32AM</p> <p>19 or told. 11:06:35AM</p> <p>20 MR. NOVIKOFF: Ask that question. 11:06:37AM</p> <p>21 That's my objection. 11:06:37AM</p> <p>22 MR. GOODSTADT: If he's aware of it, 11:06:37AM</p> <p>23 that would be a way he's aware of it. Maybe 11:06:37AM</p> <p>24 he's aware of it some other way. I want to 11:06:37AM</p> <p>25 know if he's aware of it. 11:06:40AM</p>

12 (Pages 346 to 349)

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1 GEORGE HESSE

2 BY MR. GOODSTADT: 11:06:42AM

3 Q Did anyone ever complain to you about 11:06:42AM

4 officers drinking in bars and then going on the 11:06:44AM

5 eight-to-four shift? 11:06:48AM

6 A Never. 11:06:49AM

7 MR. NOVIKOFF: Eight to four would 11:06:51AM

8 just be eight at night to four in the 11:06:52AM

9 morning, right? 11:06:55AM

10 MR. GOODSTADT: Eight in the 11:06:56AM

11 morning till -- who were drinking at night, 11:06:56AM

12 getting on the eight in the morning shift 11:06:58AM

13 and getting on tour. 11:07:00AM

14 MR. NOVIKOFF: Got it. Okay. I just 11:07:01AM

15 wanted to clarify. 11:07:01AM

16 MR. CONNOLLY: Why don't we reask the 11:07:01AM

17 question. 11:07:03AM

18 BY MR. GOODSTADT: 11:07:03AM

19 Q Did anyone ever complain to you that 11:07:04AM

20 officers were going out and drinking and then 11:07:07AM

21 working the 8 a.m. to 4 p.m. shift? 11:07:08AM

22 A No. 11:07:11AM

23 Q What was done with beer that was 11:07:16AM

24 confiscated at Ocean Beach? 11:07:19AM

25 A What was done with it? Most of the 11:07:22AM

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1 GEORGE HESSE

2 time it would just sit -- it depended on how 11:07:25AM

3 much was taken, I guess, but most of the time it 11:07:28AM

4 would just sit in the station house. 11:07:31AM

5 Q Was there a process by which the beer 11:07:33AM

6 would have to be either, you know, memorialized 11:07:36AM

7 that beer had been taken or any evidence or 11:07:44AM

8 anything else that would have to be done with 11:07:47AM

9 the beer? 11:07:49AM

10 MR. NOVIKOFF: Object to the form. 11:07:50AM

11 MR. CONNOLLY: Objection to form. 11:07:52AM

12 A I don't think there was anything in 11:07:53AM

13 place that really said what we had to do with 11:07:55AM

14 it. 11:07:58AM

15 Q Was it appropriate for officers to 11:08:00AM

16 drink beer that was confiscated? 11:08:01AM

17 A Sometimes we did. 11:08:04AM

18 Q So you've drank beer that was 11:08:06AM

19 confiscated? 11:08:08AM

20 A Stuff that was in the refrigerator, I 11:08:09AM

21 didn't know if it was confiscated or not. 11:08:11AM

22 Q If it was confiscated, would it be 11:08:14AM

23 appropriate to drink that beer? 11:08:17AM

24 MR. NOVIKOFF: Objection to form. 11:08:19AM

25 A It was disposed of. 11:08:19AM

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1 GEORGE HESSE

2 Q That wasn't the question, sir. The 11:08:21AM

3 question was whether it was appropriate to drink 11:08:23AM

4 beer that was confiscated. 11:08:25AM

5 MR. NOVIKOFF: Objection to form. 11:08:28AM

6 A I don't know if it was appropriate. 11:08:29AM

7 Q So as the chief of police, you don't 11:08:32AM

8 have an opinion one way or the other? 11:08:34AM

9 A At that time? 11:08:38AM

10 Q Or as sergeant. As a sergeant of the 11:08:38AM

11 Ocean Beach Police Department, you have no 11:08:40AM

12 opinion or had no opinion one way or the other 11:08:42AM

13 whether it was appropriate to drink beer that 11:08:47AM

14 was confiscated? 11:08:49AM

15 MR. NOVIKOFF: Objection. 11:08:50AM

16 A I don't think -- no. 11:08:51AM

17 Q It was not appropriate or it was 11:08:52AM

18 appropriate? 11:08:54AM

19 MR. NOVIKOFF: You asked if he had an 11:08:55AM

20 opinion, and he said no. 11:08:56AM

21 BY MR. GOODSTADT: 11:08:57AM

22 Q So you don't have an opinion one way 11:08:58AM

23 or the other? 11:09:00AM

24 A I really don't, no. 11:09:01AM

25 Q Did you ever drink beer that you knew 11:09:02AM

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1 GEORGE HESSE

2 was confiscated? 11:09:04AM

3 A I believe I did, yeah. 11:09:06AM

4 Q Did you ever tell any of the 11:09:07AM

5 plaintiffs what brands of beer to confiscate? 11:09:08AM

6 A No. 11:09:11AM

7 Q Do you know whether any officers told 11:09:11AM

8 the plaintiffs what brands of beer to 11:09:13AM

9 confiscate? 11:09:15AM

10 A No. 11:09:16AM

11 Q Have you ever disciplined or 11:09:24AM

12 reprimanded any officers for drinking on duty? 11:09:26AM

13 MR. NOVIKOFF: Objection. 11:09:30AM

14 A No. 11:09:31AM

15 Q Have you ever disciplined or 11:09:31AM

16 reprimanded any officers for drinking off duty 11:09:33AM

17 in Ocean Beach? 11:09:36AM

18 MR. NOVIKOFF: Objection. 11:09:38AM

19 A Not that I recall any, no. 11:09:38AM

20 Q Did you ever tell officers that it was 11:09:44AM

21 inappropriate to drink in the bars while off 11:09:47AM

22 duty? 11:09:50AM

23 MR. NOVIKOFF: Objection. Form. 11:09:51AM

24 Foundation. 11:09:52AM

25 A I don't recall. I may have. I don't 11:09:53AM

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1 GEORGE HESSE

2 know. 11:09:55AM

3 Q What's in a rocket fuel? 11:10:06AM

4 A It's a souped-up pina colada. I 11:10:09AM

5 believe it has -- it has some rum in it. It has 11:10:17AM

6 151 rum in it, and I believe it's topped 11:10:20AM

7 off with, I believe, amaretto. I'm not really 11:10:22AM

8 sure. 11:10:26AM

9 Q Did you ever collect money from other 11:10:27AM

10 officers to pay for the rocket fuels? 11:10:29AM

11 A Not that I recall. 11:10:31AM

12 Q Is there any policy in Ocean Beach or 11:10:36AM

13 in the police department with respect to 11:10:39AM

14 drinking alcohol in the police truck? 11:10:41AM

15 MR. NOVIKOFF: Objection. 11:10:44AM

16 A No. 11:10:46AM

17 Q So it was okay for officers to drink 11:10:48AM

18 in the police truck? 11:10:50AM

19 MR. NOVIKOFF: Objection. Is that a 11:10:52AM

20 question or a statement? 11:10:54AM

21 MR. GOODSTADT: I asked was it okay -- 11:10:56AM

22 MR. NOVIKOFF: Well, objection to 11:10:58AM

23 form. 11:10:59AM

24 MR. GOODSTADT: -- for officers to 11:10:59AM

25 drink in the police truck. 11:11:01AM

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1 GEORGE HESSE

2 MR. NOVIKOFF: Okay. 11:11:03AM

3 A No. 11:11:03AM

4 Q How about if they're off duty on their 11:11:04AM

5 way to the lighthouse, would it be appropriate 11:11:07AM

6 for an officer to have a drink in the police 11:11:09AM

7 truck? 11:11:12AM

8 MR. NOVIKOFF: Objection. 11:11:13AM

9 A No, not really. 11:11:13AM

10 Q Did you ever speak to any officers 11:11:14AM

11 about that? 11:11:16AM

12 A No. 11:11:16AM

13 Q Any of the plaintiffs ever complain to 11:11:17AM

14 you that officers were drinking in the police 11:11:18AM

15 truck? 11:11:21AM

16 A No. 11:11:21AM

17 Q Any of the plaintiffs ever complain to 11:11:22AM

18 you that they had to clean up the police truck 11:11:24AM

19 with beer bottles, caps and other refuse from 11:11:27AM

20 alcoholic beverages? 11:11:32AM

21 A Never. 11:11:34AM

22 Q Was it appropriate for police officers 11:11:37AM

23 to drink in the barracks? 11:11:40AM

24 MR. NOVIKOFF: Objection. 11:11:42AM

25 A Yes. 11:11:44AM

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1 GEORGE HESSE

2 Q It was appropriate? 11:11:45AM

3 A Sure. 11:11:46AM

4 Q Is there any policy with respect to 11:11:48AM

5 drinking in the barracks? 11:11:50AM

6 MR. NOVIKOFF: Objection. 11:11:52AM

7 A No. 11:11:52AM

8 MR. CONNOLLY: Again, are we making a 11:11:53AM

9 distinction between off duty and on duty? 11:11:55AM

10 BY MR. GOODSTADT: 11:11:58AM

11 Q Well, on duty, was it appropriate to 11:11:58AM

12 drink in the barracks? 11:12:00AM

13 A No. 11:12:01AM

14 Q How about before your tour, was it 11:12:01AM

15 appropriate to drink in the barracks? 11:12:04AM

16 MR. NOVIKOFF: Objection. 11:12:06AM

17 A I'd say no. 11:12:07AM

18 MR. NOVIKOFF: When you say before 11:12:09AM

19 tour, you mean within a few hours. 11:12:10AM

20 MR. GOODSTADT: Yeah, within a few 11:12:12AM

21 hours of your tour. 11:12:14AM

22 BY MR. GOODSTADT: 11:12:15AM

23 Q Was it appropriate to have any 11:12:15AM

24 alcoholic beverages within a few hours of your 11:12:17AM

25 tour? 11:12:19AM

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1 GEORGE HESSE

2 MR. NOVIKOFF: Objection. 11:12:20AM

3 A My opinion is no. 11:12:20AM

4 Q Were there any policies with respect 11:12:23AM

5 to drinking before coming on duty? 11:12:25AM

6 MR. NOVIKOFF: Note my objection. 11:12:29AM

7 A There were no policies. 11:12:30AM

8 Q If you turn to Hesse 10, Page 7 of the 11:12:31AM

9 book, Bates Number 11. 11:12:40AM

10 MR. NOVIKOFF: Okay. 11:12:42AM

11 BY MR. GOODSTADT: 11:12:48AM

12 Q Do you see under "substance abuse"? 11:12:49AM

13 A Yes, I do. 11:12:51AM

14 Q It says, "Incorporated Village of 11:12:52AM

15 Ocean Beach will not tolerate any substance 11:12:52AM

16 abuse on its premises. Any employee reporting 11:12:56AM

17 for work under the influence of alcohol or 11:13:00AM

18 controlled drugs will be asked to leave 11:13:03AM

19 immediately." 11:13:06AM

20 Do you see that? 11:13:06AM

21 A Yes. 11:13:07AM

22 Q Did you ever ask any officers who 11:13:07AM

23 reported under the influence of alcohol to 11:13:09AM

24 leave? 11:13:11AM

25 MR. NOVIKOFF: Objection. Foundation. 11:13:12AM

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1 GEORGE HESSE

2 I don't think that he's testified that there 11:13:13AM

3 were ever officers that reported under the 11:13:15AM

4 influence. 11:13:16AM

5 A Yeah, I believe I was asked that 11:13:18AM

6 question, and no. 11:13:20AM

7 MR. GOODSTADT: Could I just see that 11:13:35AM

8 question back. 11:13:36AM

9 BY MR. GOODSTADT: 11:13:46AM

10 Q Did Tom Snyder ever complain to you 11:13:47AM

11 that officers were coming out to the checkpoint 11:13:48AM

12 late when he had to come in for his shift? 11:13:53AM

13 A No. 11:13:57AM

14 Q Were firearms kept in the barracks? 11:14:05AM

15 A I believe sometimes, yes. 11:14:08AM

16 Q Okay. So even though firearms were 11:14:11AM

17 kept in the barracks, you thought it was 11:14:13AM

18 appropriate for officers to drink in the 11:14:15AM

19 barracks? 11:14:17AM

20 MR. NOVIKOFF: Objection to the form 11:14:18AM

21 of the question. 11:14:18AM

22 A Sure. 11:14:19AM

23 Q Did any of the plaintiffs ever 11:14:31AM

24 complain to you that the barracks were unsecure? 11:14:33AM

25 A Unsecure in what manner? 11:14:39AM

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1 GEORGE HESSE

2 Q Door unlocked? 11:14:44AM

3 A Yeah, I believe I had one complaint. 11:14:47AM

4 Q Who complained about that? 11:14:50AM

5 A I think it was Nofi, Joe Nofi, Tom 11:14:52AM

6 Snyder. I believe there was a dock master up 11:14:56AM

7 there that left the door unlocked once. 11:14:58AM

8 Q When was that? 11:15:01AM

9 A I don't recall the year or time frame. 11:15:01AM

10 Q And it was Nofi and Snyder who 11:15:03AM

11 complained? 11:15:05AM

12 A Yeah. I believe so, yeah. 11:15:06AM

13 Q What did they state in their 11:15:08AM

14 complaint? 11:15:09AM

15 A I believe that they said Dock Master 11:15:09AM

16 Hirsch, if I'm remembering his name correctly, 11:15:13AM

17 may have left the door open or unlocked. 11:15:17AM

18 Q Did you do anything to discipline 11:15:22AM

19 Hirsch in response to that complaint? 11:15:26AM

20 MR. NOVIKOFF: Objection to form. 11:15:28AM

21 A I don't recall a conversation I had 11:15:30AM

22 with him, but dock masters were banned from the 11:15:31AM

23 barracks after that point. 11:15:34AM

24 Q So prior to that point, they weren't 11:15:36AM

25 banned; after that point, they were banned? 11:15:39AM

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1 GEORGE HESSE

2 A That's correct. 11:15:41AM

3 Q And banning them, was that in response 11:15:42AM

4 to the complaint by Snyder and Nofi? 11:15:44AM

5 A Yes. 11:15:46AM

6 Q Did Carter ever complain to you about 11:15:46AM

7 the barracks being unsecured? 11:15:48AM

8 A Not that I'm aware of, no. 11:15:50AM

9 Q Nofi and Snyder's complaint, was that 11:15:52AM

10 in writing or verbal? 11:15:55AM

11 A I believe it was in writing. 11:15:57AM

12 Q And it's your testimony that Carter 11:15:59AM

13 never complained about that? 11:16:00AM

14 A Not that I'm aware of, that I recall. 11:16:01AM

15 MR. GOODSTADT: Let's mark this, 11:16:13AM

16 please. 11:16:14AM

17 (Whereupon, Bates document 2750 was 11:16:15AM

18 marked as Plaintiff's Exhibit 11 for 11:16:15AM

19 identification, as of this date.) 11:16:15AM

20 MR. GOODSTADT: I've placed in front 11:16:48AM

21 of Mr. Hesse what's been marked as Hesse 11. 11:16:49AM

22 It is a one-page document bearing Bates 11:16:52AM

23 Number 2750. (Handing.) 11:16:54AM

24 BY MR. GOODSTADT: 11:16:57AM

25 Q Mr. Hesse, do you recognize this 11:16:57AM

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1 GEORGE HESSE

2 document marked as Hesse 11? 11:16:59AM

3 A Actually, I don't -- I recognize it, 11:17:01AM

4 but I don't recall it. 11:17:02AM

5 Q What do you recognize this as? 11:17:05AM

6 A As an Ocean Beach Police Department 11:17:07AM

7 internal correspondence, a 2042. 11:17:10AM

8 Q And this doesn't refresh your 11:17:14AM

9 recollection as to whether Carter complained to 11:17:16AM

10 you about the barracks being unsecure? 11:17:19AM

11 MR. CONNOLLY: Objection. 11:17:22AM

12 MR. NOVIKOFF: Yeah. 11:17:24AM

13 A Yeah, I don't recall this document. 11:17:25AM

14 MR. CONNOLLY: Also, this appears to 11:17:31AM

15 be a field report of some sort, not a 11:17:32AM

16 complaint. 11:17:34AM

17 MR. GOODSTADT: Okay. 11:17:36AM

18 MR. NOVIKOFF: Well, I guess the 11:17:37AM

19 definition of complaint is what we're going 11:17:38AM

20 to be debating in the summary judgment 11:17:39AM

21 motion. 11:17:41AM

22 THE WITNESS: And it's not signed 11:17:42AM

23 either. So I don't know where it came from. 11:17:44AM

24 MR. NOVIKOFF: This establishes that 11:17:51AM

25 they knew how to write complaints. 11:17:53AM

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1 GEORGE HESSE

2 BY MR. GOODSTADT: 11:18:05AM

3 Q Did you ever direct any of the 11:18:11AM

4 plaintiffs to drive you on social visits in the 11:18:12AM

5 village while you were on duty? 11:18:19AM

6 A No. 11:18:21AM

7 Q Did you ever direct plaintiffs to 11:18:22AM

8 drive any off-duty officers while they were in 11:18:23AM

9 the village? 11:18:27AM

10 MR. NOVIKOFF: Objection to form. 11:18:32AM

11 A What? 11:18:32AM

12 Q Did you ever direct plaintiffs to 11:18:33AM

13 drive any off-duty officers to the checkpoint? 11:18:35AM

14 A Yes. 11:18:38AM

15 MR. NOVIKOFF: Objection to form. 11:18:39AM

16 The answer was yes? 11:18:40AM

17 THE WITNESS: Yes. 11:18:42AM

18 BY MR. GOODSTADT: 11:18:43AM

19 Q While they were on duty, the 11:18:44AM

20 plaintiffs? 11:18:45AM

21 MR. NOVIKOFF: Is the question did he 11:18:46AM

22 ever direct plaintiffs while on duty to 11:18:46AM

23 drive off-duty police officers to the 11:18:48AM

24 checkpoint? 11:18:51AM

25 MR. GOODSTADT: Yes. 11:18:51AM

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1 GEORGE HESSE

2 MR. NOVIKOFF: Objection to form. 11:18:53AM

3 A I may have, yes. 11:18:53AM

4 Q Did you ever direct them to drive 11:18:55AM

5 off-duty officers after they came out of the 11:18:56AM

6 bars drinking to the checkpoint while the 11:19:00AM

7 plaintiffs were on duty? 11:19:04AM

8 MR. NOVIKOFF: Objection to form and 11:19:06AM

9 foundation. 11:19:06AM

10 A I may have. 11:19:07AM

11 Q You don't recall one way or the other? 11:19:08AM

12 A Specifically, no. 11:19:10AM

13 Q Did plaintiffs ever complain to you 11:19:11AM

14 about having to do that? 11:19:13AM

15 A No. 11:19:14AM

16 Q Plaintiffs ever complain to you that 11:19:14AM

17 they were leaving the village short on officers 11:19:16AM

18 when they had to drive out to the checkpoint to 11:19:18AM

19 drive off-duty officers who had been drinking to 11:19:21AM

20 the checkpoint? 11:19:23AM

21 A Never. 11:19:25AM

22 Q Did you ever direct Joe Nofi to take 11:19:30AM

23 Walter Moeller, Walter Moeller's girlfriend and 11:19:33AM

24 their dog to the checkpoint after they'd been 11:19:38AM

25 drinking? 11:19:41AM

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1 GEORGE HESSE

2 A I don't recall that. 11:19:42AM

3 MR. NOVIKOFF: Is the dog the problem? 11:19:47AM

4 MR. GOODSTADT: No, it's leaving the 11:19:48AM

5 village unsecure is the problem. 11:19:49AM

6 MR. NOVIKOFF: Oh, okay. 11:19:52AM

7 BY MR. GOODSTADT: 11:19:59AM

8 Q Did Ed Carter ever complain to you the 11:20:00AM

9 village was left short of personnel when he was 11:20:02AM

10 required to chauffeur intoxicated off-duty 11:20:05AM

11 officers? 11:20:09AM

12 MR. NOVIKOFF: Objection -- no, no 11:20:10AM

13 objection. 11:20:12AM

14 A He's never complained, no. 11:20:13AM

15 Q Did you ever require off-duty officers 11:20:16AM

16 to wait until 5 a.m. to be taken to the 11:20:23AM

17 checkpoint? 11:20:28AM

18 A I have done that, yes. 11:20:28AM

19 Q When was -- strike that. 11:20:30AM

20 Was that a policy that you instituted 11:20:32AM

21 at some point? 11:20:34AM

22 A No. 11:20:35AM

23 Q And why did you require people to wait 11:20:36AM

24 until 5 a.m. to be taken to the checkpoint? 11:20:39AM

25 A It may have been a busy night and 11:20:43AM

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1 GEORGE HESSE

2 instead of taking one of my police officers and 11:20:45AM

3 sending them on a -- you know, out of the 11:20:48AM

4 village for a little while, I would let them 11:20:51AM

5 wait until we were making our relief, and they 11:20:53AM

6 could wait until our relief time. 11:20:56AM

7 Q What do you mean by "our relief time"? 11:20:58AM

8 A When guys were going off duty, they 11:21:01AM

9 could wait for the officers who were driving off 11:21:03AM

10 to go off duty. 11:21:07AM

11 Q And the request to require the police 11:21:11AM

12 officers to wait until 5 a.m. to be driven off, 11:21:16AM

13 it's your testimony that was in response to 11:21:20AM

14 Carter complaining about having to drive 11:21:22AM

15 intoxicated officers off duty -- 11:21:26AM

16 A No. 11:21:29AM

17 Q -- off the island? 11:21:29AM

18 A No. 11:21:32AM

19 Q It's your testimony that Carter on the 11:21:44AM

20 July 4th weekend 2005 didn't complain to you 11:21:46AM

21 about being required to chauffeur civilians 11:21:50AM

22 around while he was on duty? 11:21:53AM

23 MR. NOVIKOFF: I don't know. I don't 11:21:55AM

24 think he's testified to that around yet. 11:21:56AM

25 Objection to form. 11:21:58AM

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<p>1 GEORGE HESSE</p> <p>2 A Chauffeur civilians around? I don't 11:22:01AM</p> <p>3 know what you're talking about. I don't recall 11:22:04AM</p> <p>4 that. 11:22:05AM</p> <p>5 Q Did Carter ever complain to you that 11:22:05AM</p> <p>6 he was required to chauffeur civilians around 11:22:07AM</p> <p>7 and it left the village shorthanded? 11:22:07AM</p> <p>8 MR. NOVIKOFF: Objection. Form. 11:22:10AM</p> <p>9 A No. 11:22:11AM</p> <p>10 Q Did you ever put Carter on the back 11:22:12AM</p> <p>11 streets to patrol? 11:22:14AM</p> <p>12 A I'm sure he's done that, yes. 11:22:16AM</p> <p>13 Q Is being put on the back streets a 11:22:18AM</p> <p>14 form of discipline? 11:22:21AM</p> <p>15 A No. 11:22:22AM</p> <p>16 Q How do you determine who patrols the 11:22:27AM</p> <p>17 back streets? 11:22:30AM</p> <p>18 A Sometimes I would ask for volunteers. 11:22:32AM</p> <p>19 Q How else? 11:22:35AM</p> <p>20 A Sometimes I would just post you there. 11:22:37AM</p> <p>21 Q Was the back streets a less desirable 11:22:39AM</p> <p>22 post than the other areas of the village? 11:22:41AM</p> <p>23 MR. CONNOLLY: Objection. 11:22:44AM</p> <p>24 A In my opinion, yeah. 11:22:45AM</p> <p>25 Q Did you ever require Frank Fiorillo 11:22:50AM</p>	<p>1 GEORGE HESSE</p> <p>2 A I've been to his house for a noise 11:23:29AM</p> <p>3 complaint or two. 11:23:31AM</p> <p>4 Q Did you ever issue him a summons? 11:23:32AM</p> <p>5 A No. 11:23:34AM</p> <p>6 Q Did you ever issue a noise complaint 11:23:38AM</p> <p>7 summons to anyone in the village? 11:23:40AM</p> <p>8 A Oh, sure. 11:23:43AM</p> <p>9 Q And why didn't you issue a summons to 11:23:44AM</p> <p>10 Mitch Burns for the couple times that you were 11:23:47AM</p> <p>11 called to his house for a noise violation? 11:23:49AM</p> <p>12 A I don't think it required a summons. 11:23:52AM</p> <p>13 Q What do you mean by that? 11:23:53AM</p> <p>14 A It wasn't as loud as it would normally 11:23:55AM</p> <p>15 be to require a summons. 11:24:00AM</p> <p>16 Q Is there a certain decibel level or 11:24:02AM</p> <p>17 something that requires a summons? 11:24:06AM</p> <p>18 A You could judge it by that, but no. 11:24:08AM</p> <p>19 Q Did you judge it that way? 11:24:10AM</p> <p>20 A It's a matter of discretion. No, I 11:24:12AM</p> <p>21 didn't judge it by decibel levels. 11:24:15AM</p> <p>22 Q Have you ever been at his house on 11:24:24AM</p> <p>23 non-police business? 11:24:26AM</p> <p>24 A Yes. 11:24:28AM</p> <p>25 Q How many times? 11:24:29AM</p>
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<p>1 GEORGE HESSE</p> <p>2 while he was on duty to drive you to Mitch 11:22:52AM</p> <p>3 Burns' house? 11:22:54AM</p> <p>4 A Not that I recall. 11:22:55AM</p> <p>5 Q Who's Mitch Burns? 11:22:56AM</p> <p>6 A Just a homeowner in the village. 11:22:58AM</p> <p>7 Q You're friends with Mr. Burns? 11:23:00AM</p> <p>8 A I'm an acquaintance. 11:23:02AM</p> <p>9 Q Have you ever been over his house? 11:23:03AM</p> <p>10 A Yeah. 11:23:05AM</p> <p>11 Q In the village? 11:23:06AM</p> <p>12 A Yeah. 11:23:07AM</p> <p>13 Q Where's his house located in the 11:23:08AM</p> <p>14 village? 11:23:10AM</p> <p>15 A It's on Evergreen Walk. 11:23:10AM</p> <p>16 Q How many times have you been to his 11:23:13AM</p> <p>17 house? 11:23:15AM</p> <p>18 A A handful of times. 11:23:16AM</p> <p>19 Q How many is a handful? 11:23:17AM</p> <p>20 A Five, six times. I don't know. 11:23:19AM</p> <p>21 Q Were any of those five or six times on 11:23:21AM</p> <p>22 police business? 11:23:23AM</p> <p>23 A Yeah. 11:23:24AM</p> <p>24 Q What did you go to his house on police 11:23:26AM</p> <p>25 business for? 11:23:28AM</p>	<p>1 GEORGE HESSE</p> <p>2 A Couple times. 11:24:31AM</p> <p>3 Q How many is a couple? 11:24:32AM</p> <p>4 A Two, three times maybe. 11:24:34AM</p> <p>5 Q And what were you at his house for on 11:24:37AM</p> <p>6 non-police business? 11:24:39AM</p> <p>7 A My wife and I was invited over for a 11:24:41AM</p> <p>8 barbecue. 11:24:44AM</p> <p>9 Q Two or three times? 11:24:45AM</p> <p>10 A Yeah. 11:24:46AM</p> <p>11 Q How about other than for a barbecue, 11:24:51AM</p> <p>12 have you ever been over his house on non-police 11:24:53AM</p> <p>13 business? 11:24:55AM</p> <p>14 A Not that I recall. 11:24:56AM</p> <p>15 Q Have you ever been to his apartment in 11:24:58AM</p> <p>16 Manhattan? 11:25:02AM</p> <p>17 A Yes. 11:25:03AM</p> <p>18 Q How many times? 11:25:04AM</p> <p>19 A Once. 11:25:05AM</p> <p>20 Q On police business or non-police 11:25:06AM</p> <p>21 business? 11:25:08AM</p> <p>22 A Non-police business. 11:25:08AM</p> <p>23 Q Where's his apartment in Manhattan 11:25:09AM</p> <p>24 that you've been to? 11:25:12AM</p> <p>25 A I don't know the exact address. 11:25:13AM</p>

17 (Pages 366 to 369)

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1 GEORGE HESSE

2 **Q Was it on the Upper East Side? 11:25:15AM**

3 A It may have been. I don't know. 11:25:17AM

4 **Q When were you at his apartment on 11:25:20AM**

5 **non-police business? 11:25:22AM**

6 A It was around Christmastime, God, I 11:25:24AM

7 don't know, maybe 2003ish. 11:25:28AM

8 **Q What were you at his apartment for? 11:25:31AM**

9 A We were meeting he and his wife to go 11:25:33AM

10 to a show and then to get drinks afterwards. 11:25:37AM

11 MR. CONNOLLY: Who's "we"? 11:25:41AM

12 THE WITNESS: My wife and I and he and 11:25:42AM

13 his wife. 11:25:45AM

14 BY MR. GOODSTADT: 11:25:46AM

15 **Q Was anybody else there? 11:25:46AM**

16 A No. 11:25:48AM

17 **Q What year was that? 11:25:49AM**

18 A I don't really recall. 11:25:50AM

19 **Q Did you go to a show with him and his 11:25:52AM**

20 **wife? 11:25:54AM**

21 A Yes. 11:25:55AM

22 **Q Did you guys go out drinking 11:25:55AM**

23 **afterwards? 11:25:57AM**

24 A Yeah. 11:25:59AM

25 **Q Did you ever tell Frank Fiorillo with 11:26:02AM**

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1 GEORGE HESSE

2 **respect to Mitch Burns' place in Ocean Beach 11:26:05AM**

3 **that whatever happens here between the drugs and 11:26:08AM**

4 **the girls, we look the other way? 11:26:12AM**

5 A Never. 11:26:15AM

6 **Q Is it true that you told officers that 11:26:19AM**

7 **you slept with Elyse Miller in Mitch Burns' hot 11:26:22AM**

8 **tub? 11:26:26AM**

9 MR. NOVIKOFF: Objection. 11:26:28AM

10 A Never. 11:26:28AM

11 **Q Did you ever sleep with Elyse Miller 11:26:29AM**

12 **in Mitch Burns' hot tub? 11:26:30AM**

13 A Never. 11:26:33AM

14 **Q Have you ever been over Mitch Burns' 11:26:33AM**

15 **house while Elyse Miller was there as well? 11:26:34AM**

16 A Yes. 11:26:41AM

17 **Q How many times? 11:26:42AM**

18 A One time. 11:26:43AM

19 **Q When was that? 11:26:43AM**

20 A I don't recall. 11:26:44AM

21 **Q How did you get home from there the 11:26:47AM**

22 **day that Elyse Miller was there? 11:26:49AM**

23 A I don't know. I believe my wife and I 11:26:50AM

24 walked down Evergreen northbound to Bay Walk, 11:26:52AM

25 made a left and got on the ferry and went home. 11:26:57AM

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1 GEORGE HESSE

2 **Q Did you ever have Frank Fiorillo pick 11:27:01AM**

3 **you up from Mitch Burns' house? 11:27:03AM**

4 A Never. 11:27:06AM

5 **Q Did you ever sleep over his apartment 11:27:14AM**

6 **in New York City? 11:27:16AM**

7 A Never. 11:27:17AM

8 **Q Do you know whether he's ever sold any 11:27:23AM**

9 **narcotics? 11:27:25AM**

10 A I don't know. 11:27:26AM

11 **Q Did you ever hear that he was selling 11:27:27AM**

12 **narcotics? 11:27:29AM**

13 A No. 11:27:30AM

14 **Q Did you ever hear he was selling 11:27:30AM**

15 **Fentanyl lollipops? 11:27:32AM**

16 A No. I don't even know what that is. 11:27:34AM

17 **Q Do you know what Fentanyl is? 11:27:36AM**

18 A No. 11:27:39AM

19 **Q Who is Andrea Nimburger? 11:27:40AM**

20 A That's a woman who owns a house in the 11:27:42AM

21 village. 11:27:45AM

22 **Q Where is her house in the village? 11:27:46AM**

23 A I believe it's on Wilmot Walk, 11:27:48AM

24 W-I-L-M-O-T. 11:27:51AM

25 **Q Have you ever been over her house? 11:28:00AM**

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1 GEORGE HESSE

2 A Yes. 11:28:02AM

3 **Q How many times? 11:28:02AM**

4 A A handful of times. 11:28:03AM

5 **Q Have you ever been over there on 11:28:05AM**

6 **non-police business? 11:28:07AM**

7 A Yes. 11:28:10AM

8 **Q How many times? 11:28:11AM**

9 A Handful of times. 11:28:13AM

10 **Q How many is a handful? 11:28:14AM**

11 A Five or six. 11:28:16AM

12 **Q What years did you go to her house on 11:28:18AM**

13 **non-police business? 11:28:21AM**

14 A God, over 16 years, you know, I don't 11:28:23AM

15 know. 11:28:26AM

16 **Q You don't know? 11:28:28AM**

17 A Could be more than five or six times. 11:28:28AM

18 **Q Did you ever require Frank Fiorillo to 11:28:31AM**

19 **take her -- take you to her house for non-police 11:28:32AM**

20 **business? 11:28:36AM**

21 A Not that I recall, no. 11:28:37AM

22 **Q Do you know her son, Andrea 11:28:41AM**

23 **Nimburger's son? 11:28:43AM**

24 A Yeah. 11:28:45AM

25 **Q Did you ever have a sexual 11:28:45AM**

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1 **GEORGE HESSE**

2 **relationship with Andrea Nimbunger? 11:28:47AM**

3 MR. CONNOLLY: Objection. 11:28:49AM

4 A No. 11:28:50AM

5 **Q Isn't it true that you told Frank 11:28:51AM**

6 **Fiorillo that you did? 11:28:52AM**

7 MR. CONNOLLY: Objection. 11:28:53AM

8 A No. 11:28:54AM

9 **Q It's not true? 11:28:54AM**

10 A It's not true. 11:28:55AM

11 **Q Is it true that Fiorillo complained to 11:28:58AM**

12 **you that the village was being left short when 11:29:00AM**

13 **he had to chauffeur you over there? 11:29:03AM**

14 A Never. 11:29:05AM

15 **Q Did you ever tell Ed Carter that you 11:29:19AM**

16 **gave someone the, quote, German sausage? 11:29:21AM**

17 MR. CONNOLLY: Objection. 11:29:25AM

18 A Never. 11:29:25AM

19 **Q Did you ever use that phrase, German 11:29:26AM**

20 **sausage? 11:29:28AM**

21 A Yes. 11:29:29AM

22 MR. NOVIKOFF: You mean from a deli? 11:29:30AM

23 A Yes, I have. 11:29:31AM

24 **Q What did you mean by German sausage? 11:29:32AM**

25 A I don't know. I read it in the 11:29:33AM

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1 **GEORGE HESSE**

2 newspaper in the Post, and so now I use it on a 11:29:36AM

3 regular basis. 11:29:37AM

4 **Q You use it on a regular basis? 11:29:38AM**

5 A Yeah, as a joke. 11:29:41AM

6 **Q Referring to what? 11:29:41AM**

7 A As the German sausage. 11:29:41AM

8 **Q What are you referring to as a German 11:29:43AM**

9 **sausage? 11:29:44AM**

10 A I guess my penis. 11:29:44AM

11 MR. NOVIKOFF: I was thinking a 11:29:47AM

12 sandwich. Could be. 11:29:49AM

13 MR. GOODSTADT: I don't want to think 11:29:51AM

14 of anything. 11:29:51AM

15 BY MR. GOODSTADT: 11:30:10AM

16 **Q Did you ever refer to Kevin Lamm as 11:30:11AM**

17 **being gay or homosexual? 11:30:15AM**

18 A I have not, no. 11:30:18AM

19 **Q Did you ever refer to Kevin Lamm as 11:30:27AM**

20 **Kevina, either in writing or verbally? 11:30:29AM**

21 A Not that I recall, no. 11:30:35AM

22 **Q Did you ever refer to Kevin Lamm as 11:30:36AM**

23 **his last name Lambo -- 11:30:38AM**

24 A Oh, sure. 11:30:42AM

25 **Q -- either in writing or verbally? 11:30:43AM**

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1 **GEORGE HESSE**

2 A Verbal, yeah. 11:30:45AM

3 **Q Is that his nickname, Lambo? 11:30:46AM**

4 A Yeah. Lambo Rambo, yeah. 11:30:49AM

5 **Q Did you ever give him a business card 11:30:51AM**

6 **that said Kevin Lambo? 11:30:57AM**

7 A No. 11:30:59AM

8 (Whereupon, Bates document P 925 was 11:31:10AM

9 marked as Plaintiff's Exhibit 12 for 11:31:10AM

10 identification, as of this date.) 11:31:10AM

11 BY MR. GOODSTADT: 11:31:34AM

12 **Q I've placed in front of Hesse what's 11:31:41AM**

13 **been marked as Hesse 12. It's a one-page 11:31:42AM**

14 **exhibit Bates numbered P 925. (Handing.) 11:31:45AM**

15 **Mr. Hesse, have you ever seen what's 11:31:50AM**

16 **now been marked as Hesse 12? 11:31:52AM**

17 A Yes. 11:31:54AM

18 **Q Where did you see this? 11:31:55AM**

19 A Actually, yesterday. One of the 11:31:56AM

20 documents I forgot that I reviewed with my 11:31:59AM

21 attorney, Mr. Connolly. 11:32:01AM

22 **Q Did you create this -- 11:32:03AM**

23 A No. 11:32:05AM

24 **Q -- business card? 11:32:05AM**

25 **Did you ever create business cards on 11:32:06AM**

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1 **GEORGE HESSE**

2 **the police computer? 11:32:08AM**

3 A Yes. 11:32:09AM

4 **Q For other officers? 11:32:10AM**

5 A Everyone had access to it to make 11:32:12AM

6 whatever they wanted. 11:32:15AM

7 **Q My question is, did you ever make them 11:32:17AM**

8 **for other officers? 11:32:19AM**

9 A I may have. 11:32:20AM

10 **Q You don't recall one way or the other? 11:32:20AM**

11 A I don't recall, no. 11:32:23AM

12 **Q Which computer do you make the 11:32:25AM**

13 **business cards on? 11:32:28AM**

14 A They were made on one of the station 11:32:30AM

15 house computers way back then on a program. I 11:32:31AM

16 think it was Microsoft Publisher at the time. 11:32:34AM

17 **Q Who created the template for the Ocean 11:32:39AM**

18 **Beach business card? 11:32:43AM**

19 A I may have. 11:32:44AM

20 **Q Is this the template for the Ocean 11:32:45AM**

21 **Beach business card? The top half of this, is 11:32:46AM**

22 **that the template? 11:32:49AM**

23 A It could've been back in the day. 11:32:51AM

24 This is old. 11:32:53AM

25 **Q So you don't recall one way or the 11:32:54AM**

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1 **GEORGE HESSE**

2 **other whether that was the template? 11:32:56AM**

3 A It may have been. 11:32:58AM

4 **Q And is that the phone number of the 11:32:59AM**

5 **station house? 11:33:02AM**

6 A No. 11:33:03AM

7 MR. CONNOLLY: When? 11:33:03AM

8 **Q Is that the address of the station 11:33:05AM**

9 **house? 11:33:08AM**

10 A Yes. 11:33:08AM

11 **Q Is that the fax number or was the fax 11:33:09AM**

12 **number of the station house? 11:33:09AM**

13 A It was, I guess, when 516 was the area 11:33:11AM

14 code. This is really old. 11:33:14AM

15 **Q And was that the telephone number? 11:33:16AM**

16 A Back in the day, yeah. 11:33:18AM

17 **Q Isn't it true that you handed this 11:33:21AM**

18 **card to Kevin Lamm? 11:33:22AM**

19 MR. NOVIKOFF: Objection. 11:33:24AM

20 A I didn't hand this to Kevin Lamm, no. 11:33:24AM

21 **Q Do you believe that Kevin Lamm is 11:33:35AM**

22 **homosexual? 11:33:37AM**

23 MR. NOVIKOFF: Objection. 11:33:38AM

24 MR. CONNOLLY: Objection. 11:33:39AM

25 MR. NOVIKOFF: Objection. 11:33:40AM

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1 **GEORGE HESSE**

2 MR. CONNOLLY: What's the relevance? 11:33:40AM

3 MR. GOODSTADT: Well, the relevance 11:33:42AM

4 is, you know -- 11:33:43AM

5 MR. NOVIKOFF: Are you making a claim 11:33:44AM

6 of discrimination based on sexual 11:33:45AM

7 orientation? 11:33:47AM

8 MR. GOODSTADT: No. We're making a 11:33:49AM

9 claim of defamation. We're making a claim 11:33:50AM

10 of slander. And if we have to amend the 11:33:52AM

11 complaint, we will. 11:33:55AM

12 MR. NOVIKOFF: I look forward to you 11:33:57AM

13 amending the complaint, obviously. 11:33:58AM

14 It's your witness. 11:34:01AM

15 MR. CONNOLLY: I agree, but you can 11:34:03AM

16 answer. 11:34:04AM

17 MR. GOODSTADT: And your objections, 11:34:05AM

18 as we've gone over thousands of times, 11:34:06AM

19 patently irrelevant, are reserved. 11:34:08AM

20 MR. NOVIKOFF: Sometimes yes, 11:34:12AM

21 sometimes no. 11:34:12AM

22 MR. CONNOLLY: If you have an opinion. 11:34:14AM

23 A I don't believe he is, but I don't 11:34:18AM

24 have an opinion, really. 11:34:19AM

25 **Q Did you ever call Kevin Lamm a rat? 11:34:25AM**

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1 **GEORGE HESSE**

2 A I may have. 11:34:28AM

3 **Q How many times? 11:34:31AM**

4 A I don't know. 11:34:32AM

5 **Q What's your understanding of what a 11:34:35AM**

6 **rat is in police terminology? 11:34:36AM**

7 MR. NOVIKOFF: Objection. 11:34:39AM

8 MR. CONNOLLY: In police terminology? 11:34:42AM

9 MR. GOODSTADT: Yeah. 11:34:44AM

10 BY MR. GOODSTADT: 11:34:44AM

11 **Q You know, when you call another police 11:34:44AM**

12 **officer a rat, what does that mean? 11:34:46AM**

13 MR. NOVIKOFF: Objection. 11:34:48AM

14 MR. CONNOLLY: Objection. 11:34:49AM

15 A It could be a tattletale. It could be 11:34:50AM

16 vermin, low, dirty down. You know. 11:34:53AM

17 **Q How about a mutt, did you ever use 11:34:57AM**

18 **that term? 11:34:59AM**

19 A Yes. 11:35:00AM

20 **Q What does a mutt mean? 11:35:00AM**

21 MR. NOVIKOFF: In police parlance? 11:35:04AM

22 MR. GOODSTADT: Yeah, in police 11:35:06AM

23 parlance. 11:35:07AM

24 MR. NOVIKOFF: Objection. 11:35:08AM

25 A Dirtbag. 11:35:09AM

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1 **GEORGE HESSE**

2 **Q Is it different than a rat? 11:35:09AM**

3 MR. NOVIKOFF: In police parlance? 11:35:12AM

4 MR. GOODSTADT: Yes. 11:35:14AM

5 MR. NOVIKOFF: Objection. 11:35:15AM

6 A I guess you could use it different 11:35:16AM

7 ways, but yes. They're a little different. 11:35:17AM

8 **Q In police parlance, what's the 11:35:20AM**

9 **difference between a rat and a mutt? 11:35:22AM**

10 MR. NOVIKOFF: Objection. 11:35:26AM

11 A To differentiate the difference, a rat 11:35:26AM

12 could be a tattletale. 11:35:27AM

13 **Q Right. 11:35:29AM**

14 A A rat could be just vermin. And a 11:35:30AM

15 mutt could just be a dirtbag. I don't know. 11:35:34AM

16 **Q When you say you could've called Kevin 11:35:47AM**

17 **Lamm a rat, is there any incident that you're 11:35:49AM**

18 **referring to? 11:35:52AM**

19 A I may have written something on the 11:35:52AM

20 blog or something like that. 11:35:54AM

21 **Q What did you write on the blog? 11:35:56AM**

22 A I don't know. I'd have to go through 11:35:58AM

23 the blog. 11:35:59AM

24 **Q Did you ever verbally call Kevin Lamm 11:36:05AM**

25 **a rat? 11:36:07AM**

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1 **GEORGE HESSE**

2 A Not that I recall, no. 11:36:08AM

3 **Q Do you recall what your posting name 11:36:19AM**

4 **was on the blog when you called Kevin Lamm a 11:36:21AM**

5 **rat? 11:36:24AM**

6 A Specifically, no. 11:36:24AM

7 **Q The last time you testified to four 11:36:25AM**

8 **names that thought that you used, Still 11:36:27AM**

9 **Employed, Still Employed 2, Dirty and Dirty 1. 11:36:29AM**

10 A Uh-huh. 11:36:32AM

11 **Q Any other names that you can think of 11:36:33AM**

12 **that you used on the blog? 11:36:35AM**

13 A There are others, but I don't recall 11:36:36AM

14 them at this time. 11:36:38AM

15 **Q Did you ever use Rat Hater? 11:36:48AM**

16 A I don't think so. 11:36:50AM

17 MR. NOVIKOFF: On the blog? 11:36:52AM

18 MR. GOODSTADT: On the blog. 11:36:53AM

19 BY MR. GOODSTADT: 11:36:55AM

20 **Q Did you ever use Forever Employed? 11:36:55AM**

21 A I don't know. I'd have to look at the 11:36:57AM

22 post. 11:36:59AM

23 **Q Did you ever use Guest with 15 ones 11:36:59AM**

24 **after it? 11:37:03AM**

25 A No, I don't think so. 11:37:04AM

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1 **GEORGE HESSE**

2 **Q Or just the handle just 15 ones? 11:37:04AM**

3 A No, I don't think so. 11:37:07AM

4 **Q Did you ever use Guest 11770 or just 11:37:08AM**

5 **the number 11770? 11:37:12AM**

6 A No. 11:37:16AM

7 **Q Did you use Free the Four? 11:37:16AM**

8 A I may have. 11:37:18AM

9 MR. NOVIKOFF: Is it Free T-H-E 11:37:24AM

10 F-O-U-R? 11:37:25AM

11 MR. GOODSTADT: Yes. 11:37:29AM

12 BY MR. GOODSTADT: 11:37:31AM

13 **Q Did you ever use Just the Facts Ma'am? 11:37:32AM**

14 A I don't think so, no. 11:37:34AM

15 **Q Did you ever use Your Turn Boys? 11:37:36AM**

16 A I don't think so. 11:37:38AM

17 **Q Did you ever use Misconduct? 11:37:39AM**

18 A No. 11:37:41AM

19 **Q Did you ever use Frank the Fag? 11:37:42AM**

20 A No. 11:37:44AM

21 **Q Did you ever use Miss You Guys? 11:37:44AM**

22 A No. 11:37:47AM

23 **Q Did you ever use Hate the Five? 11:37:48AM**

24 A I don't think so, no. 11:37:50AM

25 **Q Did you ever use On the Level? 11:37:52AM**

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1 **GEORGE HESSE**

2 A No. 11:37:54AM

3 **Q Did you ever use Man Up Jerk-offs? 11:37:55AM**

4 A No. 11:37:58AM

5 **Q Did you ever post -- 11:37:58AM**

6 MR. NOVIKOFF: On the blog? 11:38:00AM

7 MR. GOODSTADT: On the blog. 11:38:01AM

8 BY MR. GOODSTADT: 11:38:03AM

9 **Q Did you ever use no name and just post 11:38:03AM**

10 **without putting in a name? 11:38:07AM**

11 A I don't think it lets you do that, but 11:38:08AM

12 no. I don't think so, no. 11:38:10AM

13 **Q Have you ever seen Joe Nofi, Frank 11:38:17AM**

14 **Fiorillo or Kevin Lamm come into contact with 11:38:20AM**

15 **somebody who they did not beat up? 11:38:24AM**

16 A What? 11:38:27AM

17 MR. NOVIKOFF: Wait, wait. Hold on. 11:38:28AM

18 MR. CONNOLLY: Objection. 11:38:30AM

19 MR. NOVIKOFF: You know, that may not 11:38:30AM

20 be objectionable to form. I just want to 11:38:32AM

21 hear the question. 11:38:34AM

22 If you can repeat that back for me. 11:38:35AM

23 (Whereupon, the referred to portion 11:38:45AM

24 was read back by the court reporter: Have 11:38:45AM

25 you ever seen Joe Nofi, Frank Fiorillo or 11:38:45AM

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1 **GEORGE HESSE**

2 Kevin Lamm come into contact with somebody 11:38:45AM

3 who they did not beat up?) 11:38:45AM

4 MR. NOVIKOFF: You mean other than the 11:38:46AM

5 people at this table? 11:38:47AM

6 MR. GOODSTADT: While they were police 11:38:52AM

7 officers. 11:38:53AM

8 MR. CONNOLLY: That's a simple yes or 11:38:57AM

9 no. 11:38:59AM

10 THE WITNESS: Yeah, I know. I'm just 11:38:59AM

11 trying to figure that one out. 11:39:01AM

12 A Yeah, I guess. 11:39:03AM

13 **Q So a statement that the three of them 11:39:05AM**

14 **beat up everyone they came into contact with 11:39:08AM**

15 **would be false, correct? 11:39:11AM**

16 A Yeah. 11:39:14AM

17 **Q Did you ever state or insinuate on the 11:39:18AM**

18 **blog that any of the plaintiffs were gay or 11:39:20AM**

19 **homosexual? 11:39:23AM**

20 A I may have. 11:39:25AM

21 **Q Do you recall which plaintiff you 11:39:27AM**

22 **stated that about on the blog? 11:39:29AM**

23 A I don't recall. 11:39:31AM

24 **Q Was it Kevin Lamm? 11:39:33AM**

25 A I might have. 11:39:34AM

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1 GEORGE HESSE

2 Q Frank Fiorillo? 11:39:35AM

3 A I might have. 11:39:36AM

4 Q Do you believe Frank Fiorillo to be 11:39:38AM

5 gay or homosexual? 11:39:40AM

6 A Nah. 11:39:42AM

7 Q Any other plaintiffs you insinuated 11:39:46AM

8 were gay or homosexual other than Mr. Fiorillo 11:39:49AM

9 or Mr. Lamm? 11:39:52AM

10 A I'm sure all five of the plaintiffs at 11:39:54AM

11 some point. 11:39:56AM

12 Q Do you believe that any of the five 11:39:57AM

13 plaintiffs are gay or homosexual? 11:39:58AM

14 A No, I don't. 11:40:00AM

15 Q Did you ever call any of the 11:40:14AM

16 plaintiffs a mutt? 11:40:15AM

17 MR. NOVIKOFF: On the blog? 11:40:16AM

18 MR. GOODSTADT: At any point. On the 11:40:18AM

19 blog, off the blog, verbally, in writing. 11:40:20AM

20 A Yeah. 11:40:23AM

21 Q When? 11:40:24AM

22 A I don't recall. 11:40:25AM

23 MR. GOODSTADT: Mark that. 11:40:54AM

24 (Whereupon, picture of writing on the 11:40:56AM

25 wall was marked as Plaintiff's Exhibit 13 11:40:56AM

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1 GEORGE HESSE

2 for identification, as of this date.) 11:40:56AM

3 MR. GOODSTADT: I've placed in front 11:41:48AM

4 of Mr. Hesse what's now been marked as 11:41:49AM

5 Hesse 13. It is a two-page exhibit. I 11:41:51AM

6 don't believe it bears any Bates numbers. 11:41:55AM

7 BY MR. GOODSTADT: 11:41:57AM

8 Q Mr. Hesse, have you ever seen the 11:41:58AM

9 first page of what's been marked as Hesse 13? 11:42:00AM

10 A Yes. 11:42:03AM

11 Q Okay. And what is this depicting? 11:42:03AM

12 A I believe it was in our bathroom stall 11:42:05AM

13 in the police station on a wood wall that you 11:42:08AM

14 would face. If you were a man standing up and 11:42:13AM

15 urinating into the toilet, you could see 11:42:17AM

16 straight in front of you what was written on the 11:42:19AM

17 wall. 11:42:23AM

18 Q Do you know who wrote this? 11:42:23AM

19 A I have no idea. 11:42:24AM

20 Q Did Snyder ever complain to you about 11:42:25AM

21 the first page of Hesse 13? 11:42:27AM

22 A It was never complained, no. 11:42:29AM

23 Q And were you the author of what's on 11:42:34AM

24 Hesse 13? 11:42:37AM

25 A Absolutely not. 11:42:38AM

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1 GEORGE HESSE

2 Q How about Page 2 of Hesse 13, did you 11:42:38AM

3 ever see this? 11:42:41AM

4 A Yes. 11:42:42AM

5 Q And was this -- where was this -- 11:42:43AM

6 strike that. 11:42:46AM

7 What is Page 2 of Hesse 13? 11:42:47AM

8 A Basically just what I described, same 11:42:51AM

9 exact thing in the same area, writing on the 11:42:53AM

10 wall in the bathroom. 11:42:56AM

11 Q Were you the author of what's depicted 11:42:58AM

12 on the second page of Hesse 13? 11:42:59AM

13 A Absolutely not, no. 11:43:01AM

14 Q Do you know who wrote what was on the 11:43:02AM

15 second page of Hesse 13? 11:43:04AM

16 A No, I don't. 11:43:05AM

17 Q Did you ever speak to any of the 11:43:07AM

18 officers about marking up the walls in the 11:43:09AM

19 bathroom? 11:43:11AM

20 A At some point, I believe I wrote on 11:43:15AM

21 the wall and said "stop writing on the wall," 11:43:17AM

22 and I told everybody to stop writing on the 11:43:19AM

23 wall. 11:43:22AM

24 Q What do you mean, you wrote "stop 11:43:22AM

25 writing on the wall"? Was it a directive you 11:43:22AM

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1 GEORGE HESSE

2 posted or you actually wrote it -- 11:43:23AM

3 A No. I wrote it right underneath all 11:43:25AM

4 this stuff. I said, "Stop writing on the wall, 11:43:27AM

5 103." 11:43:31AM

6 Q And who did you tell to stop writing 11:43:32AM

7 on the wall? 11:43:32AM

8 A I believe I made a general statement 11:43:33AM

9 to everybody that was working in the department. 11:43:35AM

10 Q Do you recall when that was? 11:43:37AM

11 A I don't, no. 11:43:39AM

12 Q And when was the two pictures that are 11:43:39AM

13 depicted in Hesse 13, when were those things 11:43:43AM

14 written on the wall? 11:43:46AM

15 A You know, I don't know. I know -- I 11:43:47AM

16 believe Laminated and Snyderized was up for 11:43:50AM

17 quite a while. 11:43:56AM

18 Q Did you ever take any steps to have it 11:43:58AM

19 removed? 11:44:01AM

20 A Oh, I've removed it but, you know, not 11:44:01AM

21 then. 11:44:05AM

22 Q I'm talking about then. Did you ever 11:44:06AM

23 take any steps to have it removed? You said it 11:44:08AM

24 was there quite a while. 11:44:10AM

25 A Yeah. No. 11:44:12AM

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<p>1 GEORGE HESSE</p> <p>2 MR. NOVIKOFF: Objection. That wasn't 11:44:13AM</p> <p>3 what you asked him when he responded "quite 11:44:14AM</p> <p>4 a while." Objection to form, but -- 11:44:17AM</p> <p>5 BY MR. GOODSTADT: 11:44:19AM</p> <p>6 Q How long is quite a while? 11:44:19AM</p> <p>7 MR. NOVIKOFF: He said he saw it quite 11:44:22AM</p> <p>8 a while ago, I believe. 11:44:23AM</p> <p>9 MR. GOODSTADT: Can you go back to the 11:44:26AM</p> <p>10 answer "quite a while." 11:44:27AM</p> <p>11 MR. CONNOLLY: Ask him. 11:44:29AM</p> <p>12 MR. GOODSTADT: I want to see what he 11:44:30AM</p> <p>13 said. 11:44:31AM</p> <p>14 BY MR. GOODSTADT: 11:45:01AM</p> <p>15 Q You testified that it was up for quite 11:45:01AM</p> <p>16 a while. 11:45:03AM</p> <p>17 A Uh-huh. 11:45:04AM</p> <p>18 MR. NOVIKOFF: I don't recall it that 11:45:05AM</p> <p>19 way, but it is what it is. 11:45:05AM</p> <p>20 MR. GOODSTADT: I have the transcript. 11:45:08AM</p> <p>21 You can play the video, if you want. 11:45:08AM</p> <p>22 MR. NOVIKOFF: I don't see a 11:45:15AM</p> <p>23 transcript. It's on the video. 11:45:15AM</p> <p>24 My objection stands. 11:45:15AM</p> <p>25</p>	<p>1 GEORGE HESSE</p> <p>2 Tutone is? 12:02:24PM</p> <p>3 A Yes. 12:02:25PM</p> <p>4 Q Who is Frank Tutone? 12:02:25PM</p> <p>5 A He's a local resident of Ocean Beach. 12:02:27PM</p> <p>6 Q Have you ever been to Mr. Tutone's 12:02:34PM</p> <p>7 residence? 12:02:37PM</p> <p>8 MR. CONNOLLY: In what capacity? 12:02:38PM</p> <p>9 MR. GOODSTADT: At any time. 12:02:40PM</p> <p>10 A Yes. 12:02:40PM</p> <p>11 Q How many times have you been to his 12:02:42PM</p> <p>12 residence? 12:02:44PM</p> <p>13 A Maybe four times. 12:02:47PM</p> <p>14 Q Have you ever been there on non-police 12:02:49PM</p> <p>15 business? 12:02:51PM</p> <p>16 A Never. 12:02:52PM</p> <p>17 Q So all four times was on police 12:02:54PM</p> <p>18 business? 12:02:56PM</p> <p>19 A Yes. 12:02:56PM</p> <p>20 Q And what was the police business at 12:02:57PM</p> <p>21 Mr. Tutone's residence that you were there for? 12:02:59PM</p> <p>22 A To arrest him. 12:03:02PM</p> <p>23 Q All four times? 12:03:03PM</p> <p>24 A I believe so, yes. 12:03:04PM</p> <p>25 Q What was he arrested for? 12:03:05PM</p>
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<p>1 GEORGE HESSE</p> <p>2 BY MR. GOODSTADT: 11:45:17AM</p> <p>3 Q So during the -- strike that. 11:45:17AM</p> <p>4 What did you mean by quite a while, 11:45:19AM</p> <p>5 how long? 11:45:22AM</p> <p>6 A I believe it was years. I believe 11:45:22AM</p> <p>7 that this stuff was on the wall for years. 11:45:24AM</p> <p>8 Q And during those years, did you ever 11:45:27AM</p> <p>9 do anything to take it down other than for write 11:45:28AM</p> <p>10 "stop writing on the walls, 103"? 11:45:32AM</p> <p>11 A No. 11:45:35AM</p> <p>12 Q Did Kevin Lamm ever complain to you 11:45:36AM</p> <p>13 about Page 2 of Hesse 13? 11:45:37AM</p> <p>14 A No. 11:45:42AM</p> <p>15 MR. GOODSTADT: I want to take a 11:45:55AM</p> <p>16 five-minute break here. 11:45:56AM</p> <p>17 MR. NOVIKOFF: You got it. 11:45:58AM</p> <p>18 THE VIDEOGRAPHER: The time is 11:47. 11:45:59AM</p> <p>19 We're off the record. 11:46:00AM</p> <p>20 (Whereupon, a discussion was held off 11:46:03AM</p> <p>21 the record.) 11:46:03AM</p> <p>22 THE VIDEOGRAPHER: The time is 12:04. 12:02:16PM</p> <p>23 We're on the record. 12:02:17PM</p> <p>24 BY MR. GOODSTADT: 12:02:20PM</p> <p>25 Q Mr. Hesse, do you know who Frank 12:02:21PM</p>	<p>1 GEORGE HESSE</p> <p>2 A Hmm, God, so many things. Aggravated 12:03:08PM</p> <p>3 harassment on several occasions. Domestic 12:03:11PM</p> <p>4 violence type stuff. 12:03:18PM</p> <p>5 Q And domestic violence against whom? 12:03:27PM</p> <p>6 A That would be his on-and-off 12:03:29PM</p> <p>7 girlfriend, Lisa Campbell. 12:03:32PM</p> <p>8 Q Are you aware of a time where 12:03:38PM</p> <p>9 Ms. Campbell was in the station and Richard 12:03:42PM</p> <p>10 Bosetti was giving her wine to drink? 12:03:45PM</p> <p>11 MR. NOVIKOFF: Objection to form. 12:03:53PM</p> <p>12 A You know, I don't know. I've heard 12:03:55PM</p> <p>13 the rumor, but I don't know for sure if that was 12:03:57PM</p> <p>14 true or not. 12:04:00PM</p> <p>15 Q When did you hear that rumor? 12:04:01PM</p> <p>16 A You know what, it may have been when 12:04:05PM</p> <p>17 this proceeding started. 12:04:08PM</p> <p>18 Q You hadn't heard the rumor prior to 12:04:09PM</p> <p>19 the proceeding? 12:04:11PM</p> <p>20 A No. Not that I'm aware of. 12:04:12PM</p> <p>21 Q And if Mr. Bosetti had given her wine 12:04:16PM</p> <p>22 to drink while she was there to file a domestic 12:04:21PM</p> <p>23 violence complaint, would that have been 12:04:25PM</p> <p>24 appropriate? 12:04:28PM</p> <p>25 MR. NOVIKOFF: Objection. 12:04:28PM</p>

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1 GEORGE HESSE

2 A In my opinion, it's inappropriate. 12:04:29PM

3 **Q Inappropriate? 12:04:31PM**

4 A Yeah. 12:04:31PM

5 **Q It's something that would result in 12:04:32PM**

6 **discipline? 12:04:37PM**

7 MR. CONNOLLY: Objection. 12:04:38PM

8 MR. NOVIKOFF: Objection. Calls for 12:04:39PM

9 speculation. 12:04:39PM

10 A No. Not necessarily. 12:04:40PM

11 **Q What do you mean by not necessarily? 12:04:43PM**

12 A I would probably just advise him not 12:04:45PM

13 to do that again. 12:04:47PM

14 **Q Have you ever spoken to Richard 12:04:48PM**

15 **Bosetti about that incident? 12:04:50PM**

16 MR. NOVIKOFF: Foundation. 12:04:53PM

17 A I don't recall if I did or not. 12:04:54PM

18 **Q You don't recall one way or the other? 12:04:55PM**

19 A No. 12:04:56PM

20 **Q Have you ever spoken with anybody, 12:04:57PM**

21 **either former or current police officers at 12:04:59PM**

22 **Ocean Beach, with respect to that incident? 12:05:02PM**

23 A I don't recall if I did or not. 12:05:04PM

24 **Q So you don't know one way or the 12:05:05PM**

25 **other? 12:05:06PM**

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1 GEORGE HESSE

2 A No. 12:05:08PM

3 **Q Did you ever speak to Kenny Bockelman 12:05:09PM**

4 **about that incident? 12:05:12PM**

5 A You know, I don't recall. 12:05:14PM

6 **Q Do you know who Kenny Bockelman is? 12:05:15PM**

7 A Oh, sure. 12:05:17PM

8 **Q Who is that? 12:05:18PM**

9 A He's a current part-time seasonal 12:05:18PM

10 police officer. B-O-C-K-E-L-M-A-N. 12:05:21PM

11 **Q Have you ever disciplined Rich 12:05:49PM**

12 **Bosetti? 12:05:51PM**

13 A Yes. 12:05:51PM

14 **Q What did you discipline Rich Bosetti 12:05:52PM**

15 **for? 12:05:55PM**

16 A A couple of different things. One 12:05:55PM

17 time I felt that he wasn't getting to his post 12:06:01PM

18 in time, and we had a little bit of an argument. 12:06:04PM

19 So he was disciplined for that and sent home for 12:06:09PM

20 his tour of duty. I believe there was another 12:06:13PM

21 time where he was caught sleeping by the mayor. 12:06:15PM

22 He was disciplined by the mayor and then me, and 12:06:20PM

23 then he was sent home for the tour of duty. And 12:06:26PM

24 then he was pretty much not asked back for 12:06:29PM

25 employment proceeding that. 12:06:32PM

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1 GEORGE HESSE

2 **Q What was the incident about what you 12:06:37PM**

3 **guys had the argument over Bosetti not being at 12:06:40PM**

4 **his post on time? 12:06:43PM**

5 A That night, early morning we had a 12:06:45PM

6 huge fire. A building burnt to the ground. And 12:06:48PM

7 that morning I had to call extra personnel in to 12:06:52PM

8 relieve some of the officers that were on all 12:06:55PM

9 night long. They were soaking wet. They had 12:06:58PM

10 debris all over them. And I wanted him to get 12:07:02PM

11 to his post to relief one of those officers 12:07:05PM

12 to -- so they can go home, rest, change, shower, 12:07:09PM

13 whatever it is. And I left the scene to go to 12:07:14PM

14 the police station for something, paperwork or 12:07:18PM

15 something. And Rich Bosetti was sitting there 12:07:21PM

16 enjoying a cup of coffee and eating a bagel, and 12:07:24PM

17 I found that to be inappropriate under the 12:07:27PM

18 circumstances. 12:07:30PM

19 **Q When was that incident? 12:07:31PM**

20 A I don't recall the exact date. I'm 12:07:36PM

21 sure you could show me something that will help 12:07:38PM

22 me recollect. 12:07:42PM

23 **Q Do you know what year it was? 12:07:43PM**

24 A I believe it was 2007. It may have 12:07:44PM

25 been in June. June or July. I'm not real 12:07:48PM

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1 GEORGE HESSE

2 positive. 12:07:51PM

3 **Q And what was the incident where the 12:07:51PM**

4 **mayor caught him sleeping? 12:07:53PM**

5 A I don't recall the exact date, but I 12:07:57PM

6 came into work about, I don't know, 9:30ish, and 12:08:01PM

7 I believe I asked the dispatcher where everybody 12:08:07PM

8 was. Everybody was on patrol. And all of a 12:08:10PM

9 sudden, I guess Rich Bosetti just comes 12:08:13PM

10 strolling into the police station. And then I 12:08:16PM

11 get a phone call from the mayor that he wants to 12:08:18PM

12 see Rich Bosetti and myself in his office at 12:08:21PM

13 whatever time he designated, and we reported to 12:08:26PM

14 his office. 12:08:30PM

15 **Q Okay. When was that? 12:08:30PM**

16 A I don't remember the exact date of 12:08:32PM

17 that either. I believe it's written down in his 12:08:33PM

18 personnel file somewhere. 12:08:37PM

19 **Q And I believe you testified that he 12:08:38PM**

20 **was sent home on that tour? 12:08:40PM**

21 A Yes, eventually he was sent home for 12:08:42PM

22 tour of duty. 12:08:45PM

23 **Q Who made the decision to send him 12:08:46PM**

24 **home? 12:08:48PM**

25 A I did. 12:08:49PM

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<p>1 GEORGE HESSE</p> <p>2 12:08:49PM</p> <p>3 Q And then was his employment terminated 12:08:59PM</p> <p>4 after that? 12:09:01PM</p> <p>5 A Yeah. There were no hours available 12:09:02PM</p> <p>6 for him. It was the end of the season. 12:09:04PM</p> <p>7 Q What do you mean, yeah, but there were 12:09:07PM</p> <p>8 no hours available for him? 12:09:09PM</p> <p>9 A I chose not to give him any more 12:09:11PM</p> <p>10 hours. 12:09:13PM</p> <p>11 Q Who made that decision to end his 12:09:13PM</p> <p>12 employment? 12:09:15PM</p> <p>13 A I did. 12:09:16PM</p> <p>14 Q Did you have any -- did you have to 12:09:16PM</p> <p>15 get any approval to end his employment? 12:09:19PM</p> <p>16 A No. 12:09:22PM</p> <p>17 Q Did you seek anyone's approval to end 12:09:23PM</p> <p>18 his employment? 12:09:25PM</p> <p>19 A I don't recall if I did. 12:09:26PM</p> <p>20 Q Did you speak to anybody about that 12:09:27PM</p> <p>21 decision prior to implementing it? 12:09:29PM</p> <p>22 A I don't recall if I did. 12:09:31PM</p> <p>23 Q Do you recall, did you speak with Joe 12:09:32PM</p> <p>24 Loeffler about it? 12:09:35PM</p> <p>25 A I may have. I don't recall. 12:09:36PM</p>	<p>1 GEORGE HESSE</p> <p>2 of 2008. 12:10:34PM</p> <p>3 Q Did you need Paradiso's approval to 12:10:39PM</p> <p>4 terminate Mr. Bosetti's employment at that time? 12:10:42PM</p> <p>5 A No. 12:10:46PM</p> <p>6 Q Did you get his approval to terminate 12:10:46PM</p> <p>7 Mr. Bosetti's employment at that time? 12:10:49PM</p> <p>8 MR. NOVIKOFF: Objection to form. 12:10:51PM</p> <p>9 A No. 12:10:52PM</p> <p>10 Q Did you discuss the decision with 12:10:52PM</p> <p>11 Paradiso either before implementing it or after? 12:10:54PM</p> <p>12 MR. NOVIKOFF: Objection to form. 12:10:57PM</p> <p>13 A No. 12:10:58PM</p> <p>14 Q Sitting here today, you never 12:10:59PM</p> <p>15 discussed that incident or decision to terminate 12:11:01PM</p> <p>16 Rich Bosetti's employment with Chief Paradiso? 12:11:04PM</p> <p>17 MR. NOVIKOFF: Objection to form. 12:11:08PM</p> <p>18 A No. 12:11:09PM</p> <p>19 Q Now, there came a point in time where 12:11:35PM</p> <p>20 there was a -- I believe you called it a 12:11:39PM</p> <p>21 Halloween incident; is that correct? 12:11:40PM</p> <p>22 A Yes. 12:11:41PM</p> <p>23 Q And that was -- just so we're clear, 12:11:42PM</p> <p>24 that was the night of October 30th into the 12:11:44PM</p> <p>25 morning of October 31, 2004? 12:11:47PM</p>
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<p>1 GEORGE HESSE</p> <p>2 Q Did you speak to anyone in Civil 12:09:39PM</p> <p>3 Service about it? 12:09:41PM</p> <p>4 A No. 12:09:44PM</p> <p>5 Q At that time, did you have the 12:09:45PM</p> <p>6 authority to terminate his employment? 12:09:46PM</p> <p>7 MR. NOVIKOFF: Objection. Form. 12:09:48PM</p> <p>8 A I believe I did. 12:09:50PM</p> <p>9 Q And what's the basis of that belief? 12:09:54PM</p> <p>10 A By my title and position. 12:09:56PM</p> <p>11 Q Your title was at that time? 12:09:59PM</p> <p>12 A Deputy acting -- acting -- who knows. 12:10:01PM</p> <p>13 MR. CONNOLLY: Deputy acting chief. 12:10:06PM</p> <p>14 A Deputy acting chief of police. 12:10:08PM</p> <p>15 Q But you testified last time that you 12:10:10PM</p> <p>16 held yourself out to be chief, correct? 12:10:13PM</p> <p>17 A Yes. 12:10:15PM</p> <p>18 MR. NOVIKOFF: Objection. 12:10:16PM</p> <p>19 BY MR. GOODSTADT: 12:10:17PM</p> <p>20 Q So during that period time? 12:10:17PM</p> <p>21 A 2007, no. Paradiso was still employed 12:10:19PM</p> <p>22 by the village, so I would be the deputy chief. 12:10:21PM</p> <p>23 Q When did the change happen between 12:10:25PM</p> <p>24 deputy chief and chief? 12:10:27PM</p> <p>25 A I believe he retired officially July 12:10:29PM</p>	<p>1 GEORGE HESSE</p> <p>2 A Yes. 12:11:50PM</p> <p>3 Q Where did the Halloween incident take 12:11:51PM</p> <p>4 place? 12:11:53PM</p> <p>5 A At a bar called Houser's. 12:11:53PM</p> <p>6 Q Where is Houser's located? 12:11:56PM</p> <p>7 A It's on Bay Walk, and it's between 12:11:57PM</p> <p>8 Ocean Breeze walk and Evergreen Walk. 12:12:02PM</p> <p>9 Q Had you ever been in Houser's prior to 12:12:07PM</p> <p>10 the Halloween incident? 12:12:09PM</p> <p>11 A Yes. 12:12:10PM</p> <p>12 Q Had you ever been in there on 12:12:11PM</p> <p>13 non-police business prior to the Halloween 12:12:14PM</p> <p>14 incident? 12:12:17PM</p> <p>15 A Yes. 12:12:17PM</p> <p>16 Q Had you ever drank at Houser's prior 12:12:18PM</p> <p>17 to the Halloween incident? 12:12:20PM</p> <p>18 MR. NOVIKOFF: Objection to form. 12:12:23PM</p> <p>19 On police business or not on police 12:12:24PM</p> <p>20 business? 12:12:26PM</p> <p>21 BY MR. GOODSTADT: 12:12:27PM</p> <p>22 Q Did you ever drink on police business 12:12:27PM</p> <p>23 or while you were on duty at Houser's prior to 12:12:28PM</p> <p>24 October 31st, 2004? 12:12:29PM</p> <p>25 A Never. 12:12:31PM</p>

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<p>1 GEORGE HESSE</p> <p>2 Q How about subsequent to October 31st, 12:12:32PM</p> <p>3 2004? 12:12:33PM</p> <p>4 A Never. 12:12:36PM</p> <p>5 Q Did you ever drink off duty in 12:12:36PM</p> <p>6 Houser's prior to October 31, 2004? 12:12:38PM</p> <p>7 A Yes. 12:12:40PM</p> <p>8 Q Did you ever drink off duty subsequent 12:12:42PM</p> <p>9 to October 31, 2004? 12:12:45PM</p> <p>10 A Yes. 12:12:46PM</p> <p>11 Q Who was the owner of Houser's at the 12:12:47PM</p> <p>12 time of the Halloween incident? 12:12:50PM</p> <p>13 A I believe there's partners involved in 12:12:51PM</p> <p>14 the bar. I think the major principals are Brian 12:12:53PM</p> <p>15 O'Hanley and Alan Stillman. 12:12:58PM</p> <p>16 Q Did you know Mr. O'Hanley prior to 12:13:09PM</p> <p>17 October 31, 2004? 12:13:13PM</p> <p>18 A Yes. 12:13:14PM</p> <p>19 Q Were you friendly with him? 12:13:16PM</p> <p>20 A Not really. 12:13:18PM</p> <p>21 Q Did you ever issue any summonses to 12:13:19PM</p> <p>22 Houser's at any point in time? 12:13:21PM</p> <p>23 A Yes. 12:13:23PM</p> <p>24 Q How many times? 12:13:23PM</p> <p>25 A Maybe three times. 12:13:27PM</p>	<p>1 GEORGE HESSE</p> <p>2 A No. 12:14:26PM</p> <p>3 Q And what was your title at that time? 12:14:33PM</p> <p>4 A Sergeant. 12:14:37PM</p> <p>5 Q How did you first learn that there was 12:14:49PM</p> <p>6 an incident on Halloween of 2004? 12:14:50PM</p> <p>7 A The early evening of Sunday, I 12:14:55PM</p> <p>8 believe, the 31st, I received a call from Ed 12:14:58PM</p> <p>9 Paradiso telling me that he had fired Gary 12:15:01PM</p> <p>10 Bosetti for an incident that had taken place at 12:15:06PM</p> <p>11 the bar, that Gary had gone berserk with a pool 12:15:09PM</p> <p>12 cue and was hitting patrons of the bar. 12:15:14PM</p> <p>13 Q Do you recall anything else that was 12:15:18PM</p> <p>14 discussed during that phone call? 12:15:19PM</p> <p>15 A I asked him what makes him think that 12:15:21PM</p> <p>16 Gary went nuts and why, and he didn't know why. 12:15:23PM</p> <p>17 Q Did he tell you what made him think 12:15:30PM</p> <p>18 that Gary went nuts? 12:15:33PM</p> <p>19 A No. He just said that he was involved 12:15:34PM</p> <p>20 in a fight, that he believes he was involved in 12:15:36PM</p> <p>21 a fight, and that he picked up a pool stick and 12:15:39PM</p> <p>22 just started hitting people with it. 12:15:42PM</p> <p>23 Q Was anything else discussed during 12:15:45PM</p> <p>24 that phone call? 12:15:46PM</p> <p>25 A Yes. He said that when I get in on 12:15:47PM</p>
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<p>1 GEORGE HESSE</p> <p>2 Q Were they prior to Halloween '04 or 12:13:29PM</p> <p>3 after? 12:13:31PM</p> <p>4 A Prior. 12:13:31PM</p> <p>5 Q Are you friends with Mr. Stillman? 12:13:34PM</p> <p>6 A No. 12:13:36PM</p> <p>7 Q Did you know him prior to Halloween 12:13:37PM</p> <p>8 2004? 12:13:38PM</p> <p>9 A Yes. 12:13:39PM</p> <p>10 Q Did you ever socialize with either of 12:13:42PM</p> <p>11 them? 12:13:44PM</p> <p>12 A No. 12:13:45PM</p> <p>13 Q Okay. Where were you the night of the 12:13:45PM</p> <p>14 Halloween incident? 12:13:51PM</p> <p>15 A I was at a wedding. I was in a 12:13:52PM</p> <p>16 wedding party for a friend of mine. 12:13:54PM</p> <p>17 Q Where was that wedding? 12:13:58PM</p> <p>18 A Good question. I believe the church 12:14:02PM</p> <p>19 might have been in -- let me see, Bayport. And 12:14:04PM</p> <p>20 then the reception was Port Jeff somewhere. 12:14:10PM</p> <p>21 Q So you were in Suffolk County at the 12:14:18PM</p> <p>22 time? 12:14:19PM</p> <p>23 A Yes. 12:14:19PM</p> <p>24 Q Were you in Ocean Beach at all that 12:14:22PM</p> <p>25 day or night, October 30th? 12:14:24PM</p>	<p>1 GEORGE HESSE</p> <p>2 Monday morning, he wants me to investigate what 12:15:50PM</p> <p>3 was going on. 12:15:54PM</p> <p>4 Q Anything else that was discussed 12:16:01PM</p> <p>5 during that call? 12:16:02PM</p> <p>6 A Not that I recall. 12:16:04PM</p> <p>7 Q Did you speak with anybody else about 12:16:09PM</p> <p>8 the Halloween incident prior to going in on that 12:16:11PM</p> <p>9 Monday morning? 12:16:15PM</p> <p>10 A Yes. 12:16:16PM</p> <p>11 Q Who did you speak with? 12:16:16PM</p> <p>12 A Frank Fiorillo and Kevin Lamm. 12:16:17PM</p> <p>13 Q Okay. When did you speak with -- 12:16:20PM</p> <p>14 well, strike that. 12:16:23PM</p> <p>15 Who did you speak with first, Frank 12:16:24PM</p> <p>16 Fiorillo or Kevin Lamm? 12:16:26PM</p> <p>17 A Kevin Lamm, I believe. 12:16:27PM</p> <p>18 Q And when did you speak with him? 12:16:28PM</p> <p>19 A I'm sure it was shortly after I spoke 12:16:30PM</p> <p>20 to Ed Paradiso. I was standing in Home Depot 12:16:32PM</p> <p>21 parking lot in Bay Shore when I made contact 12:16:37PM</p> <p>22 with Kevin. 12:16:40PM</p> <p>23 Q It was on the phone you made contact 12:16:41PM</p> <p>24 with him? 12:16:44PM</p> <p>25 A Yeah. 12:16:44PM</p>

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<p>1 GEORGE HESSE</p> <p>2 Q Did you reach out to him or did he 12:16:45PM</p> <p>3 reach out to you? 12:16:45PM</p> <p>4 A I called him. 12:16:46PM</p> <p>5 Q Where was he located? 12:16:46PM</p> <p>6 A I have no idea. 12:16:46PM</p> <p>7 Q Did you call him on his cell phone, 12:16:47PM</p> <p>8 his house phone, station phone? 12:16:49PM</p> <p>9 A I believe it was his cell phone. 12:16:52PM</p> <p>10 Q Tell me everything you recall being 12:16:55PM</p> <p>11 discussed in that conversation. 12:16:57PM</p> <p>12 A I basically remember asking him what 12:16:58PM</p> <p>13 had happened and, you know, what made him think 12:17:00PM</p> <p>14 that Gary went berserk with the pool stick, and 12:17:05PM</p> <p>15 he kept saying he didn't know why. He kept 12:17:08PM</p> <p>16 saying, I don't know. 12:17:12PM</p> <p>17 Q Well, did he tell you that Gary went 12:17:14PM</p> <p>18 berserk with a pool stick or is that something 12:17:17PM</p> <p>19 that Paradiso said? 12:17:20PM</p> <p>20 A I might be conflicting on the two, but 12:17:22PM</p> <p>21 he did say that Gary struck these individuals. 12:17:24PM</p> <p>22 I don't know if he named them specifically, but 12:17:28PM</p> <p>23 he hit somebody with the pool stick. 12:17:30PM</p> <p>24 Q When you say didn't know the name of 12:17:32PM</p> <p>25 the individuals, the people who were struck or 12:17:35PM</p>	<p>1 GEORGE HESSE</p> <p>2 Q How long after the Lamm call was the 12:18:33PM</p> <p>3 Fiorillo discussion? 12:18:35PM</p> <p>4 A Within minutes. 12:18:37PM</p> <p>5 Q Did you reach out to Fiorillo or did 12:18:38PM</p> <p>6 he reach out to you? 12:18:40PM</p> <p>7 A I believe I called him. 12:18:41PM</p> <p>8 Q Uh-huh. What phone did you call him 12:18:43PM</p> <p>9 on? 12:18:45PM</p> <p>10 A You know, I don't recall. 12:18:46PM</p> <p>11 Q Do you know where he was at the time? 12:18:49PM</p> <p>12 A No. 12:18:51PM</p> <p>13 Q Was he on duty at the time? 12:18:52PM</p> <p>14 A When I called him, I don't believe so. 12:18:54PM</p> <p>15 Q Was Lamm on duty when you spoke with 12:18:56PM</p> <p>16 him? 12:18:57PM</p> <p>17 A I don't believe so. 12:18:58PM</p> <p>18 Q Okay. Tell me everything you recall 12:18:59PM</p> <p>19 in your discussion with Fiorillo. 12:19:01PM</p> <p>20 A The phone conversation was pretty much 12:19:04PM</p> <p>21 the same. They just -- Fiorillo said that he 12:19:06PM</p> <p>22 just didn't know what had happened. 12:19:10PM</p> <p>23 Q Did he give you any details? 12:19:17PM</p> <p>24 A Not that I recall specifically other 12:19:20PM</p> <p>25 than he didn't know what had happened. 12:19:21PM</p>
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<p>1 GEORGE HESSE</p> <p>2 did he name Gary? 12:17:38PM</p> <p>3 A The people that were struck. 12:17:40PM</p> <p>4 Q And what else did he say during that 12:17:42PM</p> <p>5 call? 12:17:44PM</p> <p>6 A He just kept saying he didn't know 12:17:45PM</p> <p>7 what had happened. 12:17:46PM</p> <p>8 Q Did he give you any other details 12:17:49PM</p> <p>9 about what had happened other than just telling 12:17:51PM</p> <p>10 you that he had struck some people with a pool 12:18:03PM</p> <p>11 cue? 12:18:06PM</p> <p>12 A That's it. And he said the rest he 12:18:07PM</p> <p>13 didn't know. 12:18:09PM</p> <p>14 Q And what did you say during that 12:18:13PM</p> <p>15 conversation? 12:18:14PM</p> <p>16 A Okay. 12:18:16PM</p> <p>17 Q How long did the conversation last? 12:18:17PM</p> <p>18 A A few minutes. Not long. 12:18:19PM</p> <p>19 Q Did you take any notes of that 12:18:22PM</p> <p>20 conversation? 12:18:23PM</p> <p>21 A No. 12:18:23PM</p> <p>22 Q Now, I believe you testified that you 12:18:27PM</p> <p>23 spoke with Frank Fiorillo as well prior to 12:18:29PM</p> <p>24 coming in that Monday? 12:18:31PM</p> <p>25 A Yes. 12:18:33PM</p>	<p>1 GEORGE HESSE</p> <p>2 Q What did you say other than for what 12:19:23PM</p> <p>3 happened? 12:19:25PM</p> <p>4 A I really didn't say anything else. I 12:19:27PM</p> <p>5 just had asked him what had happened. 12:19:29PM</p> <p>6 Q He said he didn't know? 12:19:32PM</p> <p>7 A Right. 12:19:33PM</p> <p>8 Q Anything else discussed in that phone 12:19:33PM</p> <p>9 call? 12:19:35PM</p> <p>10 A Not that I recall, no. 12:19:35PM</p> <p>11 Q Did you take any notes of that call? 12:19:37PM</p> <p>12 A No. 12:19:38PM</p> <p>13 Q How long did that call last? 12:19:40PM</p> <p>14 A Few minutes. 12:19:42PM</p> <p>15 Q So during those few minutes, you don't 12:19:46PM</p> <p>16 recall anything other than for you saying what 12:19:48PM</p> <p>17 happened and him saying I don't know what 12:19:50PM</p> <p>18 happened? 12:19:52PM</p> <p>19 MR. CONNOLLY: Objection to the form. 12:19:52PM</p> <p>20 A Pretty much. 12:19:54PM</p> <p>21 Q Did you take any notes of that call? 12:19:57PM</p> <p>22 MR. NOVIKOFF: Objection. Asked and 12:19:59PM</p> <p>23 answered. 12:20:00PM</p> <p>24 A No. 12:20:00PM</p> <p>25 Q Did you speak with anybody else about 12:20:04PM</p>

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<p>1 GEORGE HESSE</p> <p>2 the Halloween incident prior to coming in on 12:20:05PM</p> <p>3 Monday morning? 12:20:09PM</p> <p>4 A No. 12:20:10PM</p> <p>5 Q Did you have any other follow-up calls 12:20:11PM</p> <p>6 with Paradiso prior to coming in Monday morning? 12:20:12PM</p> <p>7 A No. 12:20:15PM</p> <p>8 Q Did you speak with Pat Cherry prior to 12:20:16PM</p> <p>9 coming in Monday morning? 12:20:19PM</p> <p>10 A I don't believe so, no. 12:20:20PM</p> <p>11 Q Did you speak with Gary Bosetti prior 12:20:21PM</p> <p>12 to coming in Monday morning? 12:20:23PM</p> <p>13 A No. 12:20:25PM</p> <p>14 Q Did you speak with Rich Bosetti prior 12:20:26PM</p> <p>15 to coming in Monday morning? 12:20:27PM</p> <p>16 A No. 12:20:29PM</p> <p>17 Q Did you have any communications or 12:20:39PM</p> <p>18 correspondence with anybody about the Halloween 12:20:41PM</p> <p>19 incident other than what you've testified to 12:20:43PM</p> <p>20 prior to coming in that Monday morning? 12:20:45PM</p> <p>21 A Not that I recall, no. 12:20:47PM</p> <p>22 Q And then you came to work that Monday? 12:20:53PM</p> <p>23 A Correct. 12:20:55PM</p> <p>24 Q Okay. What was the first thing you 12:20:55PM</p> <p>25 did with respect to the Halloween incident when 12:20:57PM</p>	<p>1 GEORGE HESSE</p> <p>2 Q Okay. So between 8 and 8:30, had you 12:22:01PM</p> <p>3 already read the statements in the field report? 12:22:03PM</p> <p>4 A Yes. 12:22:06PM</p> <p>5 Q And you were waiting for something to 12:22:07PM</p> <p>6 pop during that period? 12:22:09PM</p> <p>7 A Yeah. 12:22:11PM</p> <p>8 Q Between 8 and 8:30, did you speak with 12:22:11PM</p> <p>9 anybody prior to this call from Paradiso coming 12:22:14PM</p> <p>10 in about the Halloween incident? 12:22:18PM</p> <p>11 A No. 12:22:20PM</p> <p>12 Q What do you recall -- tell me the 12:22:24PM</p> <p>13 details of your call with Paradiso that morning. 12:22:26PM</p> <p>14 A Well, he called me, and I basically 12:22:29PM</p> <p>15 said to him that there's not really much to go 12:22:33PM</p> <p>16 on yet, you know. The field report really 12:22:36PM</p> <p>17 didn't contain many names other than the three 12:22:38PM</p> <p>18 individuals that were claiming they were hit 12:22:42PM</p> <p>19 with a pool stick. 12:22:45PM</p> <p>20 Q Anything else that was discussed 12:22:48PM</p> <p>21 between you and Paradiso during that call? 12:22:50PM</p> <p>22 A Not that I recall. 12:22:52PM</p> <p>23 Q How long did that call last? 12:22:53PM</p> <p>24 A A few minutes. 12:22:55PM</p> <p>25 Q Do you recall anything he said during 12:22:58PM</p>
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<p>1 GEORGE HESSE</p> <p>2 you got to work that Monday? 12:20:59PM</p> <p>3 A I read over the statements that were 12:21:01PM</p> <p>4 taken by Officer Fiorillo, Lamm and Snyder and 12:21:04PM</p> <p>5 the field report that was generated by Snyder. 12:21:07PM</p> <p>6 Q Okay. Did you have a reaction to 12:21:15PM</p> <p>7 statements in the field report? 12:21:17PM</p> <p>8 MR. NOVIKOFF: Objection. 12:21:20PM</p> <p>9 A A reaction? No, I wouldn't say I had 12:21:21PM</p> <p>10 a reaction. 12:21:27PM</p> <p>11 Q What did you do after reviewing the 12:21:28PM</p> <p>12 statements in the field report with respect to 12:21:30PM</p> <p>13 the Halloween incident? 12:21:32PM</p> <p>14 A I basically just sat there for a 12:21:33PM</p> <p>15 little while, mulling them over, scratching my 12:21:35PM</p> <p>16 head, reading them over and over again. Just 12:21:38PM</p> <p>17 waiting for something to pop. 12:21:41PM</p> <p>18 Q Did you speak with anybody else at 12:21:44PM</p> <p>19 that time? 12:21:47PM</p> <p>20 A That morning? I received a call from 12:21:47PM</p> <p>21 Chief Paradiso that morning. 12:21:51PM</p> <p>22 Q Do you know what time? 12:21:53PM</p> <p>23 A I'd like to say 8:30ish. 12:21:55PM</p> <p>24 Q What time did you get there? 12:21:58PM</p> <p>25 A I was there by 8. 12:21:59PM</p>	<p>1 GEORGE HESSE</p> <p>2 that call? 12:22:59PM</p> <p>3 A I don't recall exactly what he said, 12:23:00PM</p> <p>4 no. 12:23:02PM</p> <p>5 Q How about generally, sum and 12:23:02PM</p> <p>6 substance? 12:23:04PM</p> <p>7 A He just said investigate it and see 12:23:05PM</p> <p>8 what you can come up with. 12:23:06PM</p> <p>9 Q Okay. What was the next thing you did 12:23:08PM</p> <p>10 with respect to the Halloween incident after 12:23:13PM</p> <p>11 that 8:30 call with Paradiso? 12:23:15PM</p> <p>12 A I took a walk down to Houser's to see 12:23:17PM</p> <p>13 if anybody was around. 12:23:21PM</p> <p>14 Q Did you go with anybody? 12:23:23PM</p> <p>15 A No. 12:23:25PM</p> <p>16 Q Who was on duty that morning? 12:23:28PM</p> <p>17 A I was alone. 12:23:30PM</p> <p>18 Q And you took a walk down to Houser's. 12:23:40PM</p> <p>19 What was the next thing you did? 12:23:42PM</p> <p>20 A I peered in the windows, looked around 12:23:44PM</p> <p>21 to see if anybody was there. Nobody was around, 12:23:46PM</p> <p>22 and I just basically went back to the police 12:23:49PM</p> <p>23 station. 12:23:52PM</p> <p>24 Q Okay. What was the next thing you did 12:23:56PM</p> <p>25 with respect to Halloween? 12:23:58PM</p>

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<p>1 GEORGE HESSE</p> <p>2 A I sat in the station, and I think I 12:24:02PM</p> <p>3 read the statements and everything again. And 12:24:04PM</p> <p>4 shortly thereafter, I believe it was around 12:24:08PM</p> <p>5 9:30, I had received a fax from a gentlemen 12:24:11PM</p> <p>6 named Bud Yager. 12:24:16PM</p> <p>7 Q Had you known Bud Yager prior to 12:24:24PM</p> <p>8 receiving that fax? 12:24:28PM</p> <p>9 A Yeah. Yes. 12:24:29PM</p> <p>10 Q Who was he? 12:24:29PM</p> <p>11 A He was a local resident that -- he 12:24:30PM</p> <p>12 worked in the -- I think he and his wife ran the 12:24:33PM</p> <p>13 movie theater. He was a projectionist for the 12:24:37PM</p> <p>14 movie theater. 12:24:41PM</p> <p>15 Q Had you spoken to Bud Yager about 12:24:43PM</p> <p>16 Halloween prior to receiving the fax? 12:24:46PM</p> <p>17 A No. 12:24:48PM</p> <p>18 Q Had you known that Bud Yager was even 12:24:48PM</p> <p>19 in the bar prior to receiving that fax? 12:24:50PM</p> <p>20 A No. 12:24:53PM</p> <p>21 Q And the fax came to the police 12:24:59PM</p> <p>22 station? 12:25:00PM</p> <p>23 A Yes. 12:25:01PM</p> <p>24 Q And what was the sum and substance of 12:25:01PM</p> <p>25 that fax? 12:25:03PM</p>	<p>1 GEORGE HESSE</p> <p>2 Q Did you keep a copy of that responding 12:26:18PM</p> <p>3 fax that you sent? 12:26:21PM</p> <p>4 A No, I don't think I did. 12:26:23PM</p> <p>5 Q What did you do with it? 12:26:24PM</p> <p>6 A I don't remember. 12:26:26PM</p> <p>7 Q What was the next thing that you did 12:26:32PM</p> <p>8 with respect to Halloween after sending the fax 12:26:34PM</p> <p>9 back to Bud Yager? 12:26:36PM</p> <p>10 A I believe I got a call back within 5 12:26:39PM</p> <p>11 or 10 minutes from Bud Yager, and we just talked 12:26:43PM</p> <p>12 about what he had sent me. 12:26:50PM</p> <p>13 Q Okay. What did Bud Yager tell you in 12:26:51PM</p> <p>14 that call? 12:26:53PM</p> <p>15 A Basically, he reiterated what was in 12:26:54PM</p> <p>16 his letter to the police department; and I asked 12:26:57PM</p> <p>17 if I could speak to his wife, if she would call 12:27:01PM</p> <p>18 me. 12:27:04PM</p> <p>19 Q Did you take any notes of that call 12:27:09PM</p> <p>20 with Bud Yager? 12:27:11PM</p> <p>21 A No. 12:27:12PM</p> <p>22 Q Why not? 12:27:12PM</p> <p>23 A I didn't. 12:27:14PM</p> <p>24 Q How come? 12:27:15PM</p> <p>25 MR. CONNOLLY: Objection. 12:27:21PM</p>
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<p>1 GEORGE HESSE</p> <p>2 A I guess he had heard that Gary Bosetti 12:25:03PM</p> <p>3 was fired for the incident, and he felt that the 12:25:06PM</p> <p>4 decision to fire Gary was incorrect. He felt 12:25:11PM</p> <p>5 that Gary Bosetti was a hero for saving his wife 12:25:13PM</p> <p>6 from injury or possible injury from a man that 12:25:18PM</p> <p>7 had attacked his wife. 12:25:22PM</p> <p>8 Q Prior to getting that fax, did you 12:25:24PM</p> <p>9 know that his wife was at the bar? 12:25:26PM</p> <p>10 A No, I didn't. No. 12:25:29PM</p> <p>11 Q What did you do with that fax other 12:25:41PM</p> <p>12 than for reading it? Did you disseminate it to 12:25:42PM</p> <p>13 anybody else? 12:25:45PM</p> <p>14 A No. I believe I called him -- 12:25:46PM</p> <p>15 actually, I tried to call him. Turns out he's a 12:25:48PM</p> <p>16 New York City fireman, and I tried to call him 12:25:52PM</p> <p>17 at the number that was listed on the fax. I got 12:25:55PM</p> <p>18 no response. And what I did is took a piece of 12:25:58PM</p> <p>19 paper and I wrote, you know, Bud, it's George 12:26:01PM</p> <p>20 from the police department. I just received 12:26:04PM</p> <p>21 your fax or something like that. Call me at 12:26:06PM</p> <p>22 this number. And I faxed it to the number that 12:26:09PM</p> <p>23 the fax came from. 12:26:12PM</p> <p>24 Q Did the fax go through? 12:26:15PM</p> <p>25 A Yeah, I think so. 12:26:17PM</p>	<p>1 GEORGE HESSE</p> <p>2 You can answer. 12:27:22PM</p> <p>3 A I didn't think it was necessary to 12:27:23PM</p> <p>4 take notes. I had his letter in front of me. 12:27:24PM</p> <p>5 Q Did you consider that call as part of 12:27:28PM</p> <p>6 your investigation? 12:27:31PM</p> <p>7 A Yeah. 12:27:32PM</p> <p>8 Q Do you recall anything else that was 12:27:36PM</p> <p>9 discussed in that phone call? 12:27:38PM</p> <p>10 A I wanted to speak to his wife. 12:27:41PM</p> <p>11 Q Did you know his wife? 12:27:44PM</p> <p>12 A Just vaguely. 12:27:46PM</p> <p>13 Q How did you know her? 12:27:48PM</p> <p>14 A Like I said, he and his wife ran the 12:27:50PM</p> <p>15 movie theater, and I just knew them in passing. 12:27:53PM</p> <p>16 Q Did you ask Bud Yager whether he had 12:28:10PM</p> <p>17 been drinking that night? 12:28:14PM</p> <p>18 A I don't recall. I don't think so. 12:28:17PM</p> <p>19 Q Would that be important to know, 12:28:19PM</p> <p>20 whether somebody who sent you a facsimile 12:28:20PM</p> <p>21 reiterating a story that happened was drinking? 12:28:24PM</p> <p>22 MR. NOVIKOFF: Was what? 12:28:27PM</p> <p>23 MR. GOODSTADT: Whether it was 12:28:28PM</p> <p>24 important to know whether a person who faxed 12:28:29PM</p> <p>25 you a story reiterating what happened, 12:28:32PM</p>

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<p>1 GEORGE HESSE</p> <p>2 whether that person was drinking or not. 12:28:34PM</p> <p>3 MR. NOVIKOFF: Objection to form. 12:28:37PM</p> <p>4 MR. CONNOLLY: I'm assuming drinking 12:28:38PM</p> <p>5 alcoholic beverages. 12:28:40PM</p> <p>6 MR. GOODSTADT: Yeah. 12:28:42PM</p> <p>7 MR. CONNOLLY: To the point of 12:28:43PM</p> <p>8 intoxication. 12:28:44PM</p> <p>9 MR. GOODSTADT: Just drinking at all. 12:28:44PM</p> <p>10 A It may have been important. 12:28:45PM</p> <p>11 Q Why didn't you ask him? 12:28:47PM</p> <p>12 A I don't know why I didn't ask him. 12:28:49PM</p> <p>13 Q In fact, if he had been drinking to 12:28:51PM</p> <p>14 the point of intoxication, it could've affected 12:28:52PM</p> <p>15 his ability to recollect facts, correct? 12:28:55PM</p> <p>16 MR. NOVIKOFF: Objection. 12:28:58PM</p> <p>17 A It may have. 12:28:59PM</p> <p>18 Q Did Bud Yager mention anything about 12:29:01PM</p> <p>19 Gary Bosetti using a pool cue? 12:29:05PM</p> <p>20 A No. I don't recall. 12:29:09PM</p> <p>21 Q Did Bud Yager indicate that he 12:29:12PM</p> <p>22 actually saw the altercation? 12:29:14PM</p> <p>23 A I believe he said that he did not see 12:29:16PM</p> <p>24 the actual altercation in the beginning or the 12:29:18PM</p> <p>25 beginning part of the altercation. 12:29:22PM</p>	<p>1 GEORGE HESSE</p> <p>2 Q Do you know whether Jeanne Yager was 12:30:11PM</p> <p>3 drinking that night? 12:30:14PM</p> <p>4 A I don't know. 12:30:15PM</p> <p>5 Q Did he tell you he witnessed any part 12:30:15PM</p> <p>6 of the altercation or the Halloween incident? 12:30:18PM</p> <p>7 A I don't recall. 12:30:22PM</p> <p>8 Q Did you ask him whether he witnessed 12:30:25PM</p> <p>9 any of it? 12:30:27PM</p> <p>10 A I believe I did. 12:30:28PM</p> <p>11 Q And you don't recall what his answer 12:30:29PM</p> <p>12 was? 12:30:31PM</p> <p>13 A No, I don't. 12:30:31PM</p> <p>14 Q How many investigations had you 12:30:32PM</p> <p>15 performed prior to investigating the Halloween 12:30:34PM</p> <p>16 incident? 12:30:37PM</p> <p>17 A I don't know. 12:30:38PM</p> <p>18 Q Had you performed any investigations 12:30:40PM</p> <p>19 prior to the Halloween incident? 12:30:42PM</p> <p>20 A Sure, I had. 12:30:43PM</p> <p>21 Q Did you ever investigate any incident 12:30:44PM</p> <p>22 dealing with an off-duty police officer? 12:30:47PM</p> <p>23 A I don't think so, no. 12:30:51PM</p> <p>24 Q Had you ever investigated a fight? 12:30:52PM</p> <p>25 A Yes. 12:30:57PM</p>
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<p>1 GEORGE HESSE</p> <p>2 Q When you say the beginning part, what 12:29:24PM</p> <p>3 part are you referring to? 12:29:26PM</p> <p>4 A The part where his wife was choked. 12:29:27PM</p> <p>5 Q Did you ask him where he got the 12:29:35PM</p> <p>6 information from that his wife was being choked? 12:29:37PM</p> <p>7 MR. NOVIKOFF: Objection to form. 12:29:40PM</p> <p>8 You mean to the extent it wasn't 12:29:41PM</p> <p>9 contained in the statement? 12:29:42PM</p> <p>10 MR. GOODSTADT: He didn't personally 12:29:44PM</p> <p>11 see it, so I want to know -- 12:29:46PM</p> <p>12 MR. NOVIKOFF: Well, I'm saying to the 12:29:46PM</p> <p>13 extent that that answer was not contained 12:29:47PM</p> <p>14 within the statement. 12:29:49PM</p> <p>15 MR. GOODSTADT: Whether it is or 12:29:50PM</p> <p>16 isn't, did you ask him the question. 12:29:51PM</p> <p>17 MR. NOVIKOFF: Fair enough. 12:29:54PM</p> <p>18 A He said his wife had told him what had 12:29:55PM</p> <p>19 happened. 12:29:57PM</p> <p>20 Q Did you ask whether his wife was 12:30:01PM</p> <p>21 drinking? 12:30:03PM</p> <p>22 A No, I don't think so. 12:30:05PM</p> <p>23 Q Sitting here today, do you know 12:30:07PM</p> <p>24 whether Bud Yager was drinking that night? 12:30:08PM</p> <p>25 A I don't know. 12:30:11PM</p>	<p>1 GEORGE HESSE</p> <p>2 Q How many times? 12:30:58PM</p> <p>3 A Hundreds. 12:30:59PM</p> <p>4 Q Hundreds of times? 12:31:00PM</p> <p>5 A Hundreds of fights. 12:31:02PM</p> <p>6 Q Did you ever investigate any fights 12:31:04PM</p> <p>7 not at the scene but afterwards? 12:31:07PM</p> <p>8 MR. NOVIKOFF: Objection to form. I 12:31:10PM</p> <p>9 have no idea what that question means. 12:31:11PM</p> <p>10 BY MR. GOODSTADT: 12:31:13PM</p> <p>11 Q Well, your investigation didn't happen 12:31:14PM</p> <p>12 at the scene, right? 12:31:16PM</p> <p>13 A Yes. 12:31:18PM</p> <p>14 Q It happened afterwards? 12:31:18PM</p> <p>15 A Right. 12:31:18PM</p> <p>16 Q Do you understand the question I was 12:31:20PM</p> <p>17 asking? 12:31:21PM</p> <p>18 A I understand. 12:31:21PM</p> <p>19 MR. NOVIKOFF: Well, I think that an 12:31:22PM</p> <p>20 investigation can only take place after the 12:31:23PM</p> <p>21 event occurred. 12:31:26PM</p> <p>22 MR. GOODSTADT: Or at the scene. 12:31:28PM</p> <p>23 MR. NOVIKOFF: After the event 12:31:30PM</p> <p>24 occurred. 12:31:31PM</p> <p>25 MR. GOODSTADT: Right. 12:31:31PM</p>

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<p>1 GEORGE HESSE</p> <p>2 MR. NOVIKOFF: Right. Okay. 12:31:31PM</p> <p>3 A Repeat your question. 12:31:31PM</p> <p>4 Q How many of those investigations 12:31:34PM</p> <p>5 happened not at the scene but afterwards? 12:31:36PM</p> <p>6 MR. NOVIKOFF: Objection. 12:31:40PM</p> <p>7 A I'd say a majority. 12:31:40PM</p> <p>8 Q A majority? 12:31:42PM</p> <p>9 A Yeah. 12:31:43PM</p> <p>10 Q Does Ocean Beach have an internal 12:31:43PM</p> <p>11 affairs? 12:31:45PM</p> <p>12 A No. 12:31:48PM</p> <p>13 Q Does -- 12:31:49PM</p> <p>14 MR. CONNOLLY: Department, I assume. 12:31:50PM</p> <p>15 MR. GOODSTADT: Department, yeah. 12:31:51PM</p> <p>16 Bureau or whatever it is. 12:31:52PM</p> <p>17 BY MR. GOODSTADT: 12:31:53PM</p> <p>18 Q Is there any -- does Suffolk County 12:31:54PM</p> <p>19 internal affairs oversee Ocean Beach? 12:31:59PM</p> <p>20 A No. Not that I'm aware of, no. 12:32:06PM</p> <p>21 Q Do you know whether there's ever been 12:32:09PM</p> <p>22 an internal affairs investigation with respect 12:32:10PM</p> <p>23 to any current or former officer in Ocean Beach? 12:32:12PM</p> <p>24 A With the internal affairs unit of 12:32:17PM</p> <p>25 Suffolk County PD? No. 12:32:20PM</p>	<p>1 GEORGE HESSE</p> <p>2 day I can remember her name. Mallory Sullivan. 12:33:15PM</p> <p>3 Q She was an investigator or is she an 12:33:29PM</p> <p>4 assistant District Attorney? 12:33:30PM</p> <p>5 A She's an ADA. ADA. 12:33:32PM</p> <p>6 You know what, I'm sorry. It may have 12:33:37PM</p> <p>7 been Beth Grasso. Because they kind of work 12:33:39PM</p> <p>8 back to back, but I think it was Beth Grasso. 12:33:45PM</p> <p>9 Q Were there any District Attorney 12:33:48PM</p> <p>10 investigators involved in the Halloween 12:33:51PM</p> <p>11 incident? 12:33:53PM</p> <p>12 MR. NOVIKOFF: Objection. 12:33:54PM</p> <p>13 A Not that I'm aware of. 12:33:55PM</p> <p>14 MR. CONNOLLY: Andrew, after you 12:34:11PM</p> <p>15 complete this line of questioning, it's 12:34:12PM</p> <p>16 12:30. 12:34:14PM</p> <p>17 MR. NOVIKOFF: I don't think he's 12:34:17PM</p> <p>18 completing this line of questioning for a 12:34:18PM</p> <p>19 couple of hours. 12:34:20PM</p> <p>20 MR. GOODSTADT: Yeah. Let me just 12:34:21PM</p> <p>21 finish on Mr. Yager, and then we'll take our 12:34:23PM</p> <p>22 break, call the court and do what we have to 12:34:26PM</p> <p>23 do. 12:34:30PM</p> <p>24 BY MR. GOODSTADT: 12:34:38PM</p> <p>25 Q What was the next thing that happened 12:34:38PM</p>
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<p>1 GEORGE HESSE</p> <p>2 Q Or any internal affairs unit. 12:32:21PM</p> <p>3 A Not that I'm aware of. 12:32:24PM</p> <p>4 Q Did you call anybody at Suffolk County 12:32:26PM</p> <p>5 Police with respect to the Halloween incident? 12:32:28PM</p> <p>6 MR. NOVIKOFF: Objection to form. 12:32:32PM</p> <p>7 A No. 12:32:33PM</p> <p>8 Q Did you involve Suffolk County Police 12:32:34PM</p> <p>9 at all with respect to Halloween incident? 12:32:35PM</p> <p>10 MR. NOVIKOFF: Objection. Foundation. 12:32:38PM</p> <p>11 A No. 12:32:39PM</p> <p>12 Q Did you involve the D.A., County 12:32:40PM</p> <p>13 District Attorney, with respect to the Halloween 12:32:43PM</p> <p>14 incident? 12:32:45PM</p> <p>15 MR. NOVIKOFF: Objection. 12:32:46PM</p> <p>16 A Yes. 12:32:46PM</p> <p>17 Q In what capacity? 12:32:47PM</p> <p>18 A At the completion of the 12:32:48PM</p> <p>19 investigation, I turned all documents over to 12:32:49PM</p> <p>20 the D.A.'s office, the prosecutor that's 12:32:51PM</p> <p>21 assigned to the village for review. 12:32:54PM</p> <p>22 Q Who was the prosecutor assigned to the 12:32:56PM</p> <p>23 village at the time? 12:32:59PM</p> <p>24 A It may -- you know, I think it was -- 12:33:02PM</p> <p>25 it's coming to me. Natalie -- no. Any other 12:33:09PM</p>	<p>1 GEORGE HESSE</p> <p>2 with respect to the Halloween incident after you 12:34:39PM</p> <p>3 told Bud Yager that you'd like to speak with his 12:34:42PM</p> <p>4 wife? 12:34:46PM</p> <p>5 A I believe his wife had called me. 12:34:46PM</p> <p>6 Q Okay. And when was that? 12:34:48PM</p> <p>7 A That same day. The time frame, 12:34:50PM</p> <p>8 though, from when I was talking to him until she 12:34:52PM</p> <p>9 called may have been within an hour. 12:34:56PM</p> <p>10 Q Okay. 12:34:58PM</p> <p>11 MR. GOODSTADT: Mark this, please. 12:35:01PM</p> <p>12 (Whereupon, Bates document 3180 was 12:35:03PM</p> <p>13 marked as Plaintiff's Exhibit 14 for 12:35:03PM</p> <p>14 identification, as of this date.) 12:35:03PM</p> <p>15 MR. GOODSTADT: I've placed in front 12:35:54PM</p> <p>16 of Mr. Hesse what's been marked as Hesse 14. 12:35:55PM</p> <p>17 It's a one-page exhibit bearing Bates 3180. 12:35:57PM</p> <p>18 (Handing.) 12:36:01PM</p> <p>19 BY MR. GOODSTADT: 12:36:02PM</p> <p>20 Q Mr. Hesse, is this the fax that you 12:36:03PM</p> <p>21 received or a copy of the fax that you received 12:36:04PM</p> <p>22 from Bud Yager? 12:36:06PM</p> <p>23 A It looks like it, yes. 12:36:08PM</p> <p>24 Q And this is the document you testified 12:36:09PM</p> <p>25 to before that you had reviewed before calling 12:36:12PM</p>

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<p>1 GEORGE HESSE</p> <p>2 him? 12:36:15PM</p> <p>3 A Yes. 12:36:15PM</p> <p>4 Q Or before faxing it over -- before 12:36:16PM</p> <p>5 faxing a request for him to call you? 12:36:17PM</p> <p>6 A Yes. 12:36:20PM</p> <p>7 Q And the -- if you look at the whole -- 12:36:21PM</p> <p>8 just the first paragraph up until the last four 12:36:25PM</p> <p>9 lines, do you see that? Did you read that? 12:36:31PM</p> <p>10 A Which part? 12:36:35PM</p> <p>11 Q The part that starts -- you know, on 12:36:36PM</p> <p>12 the first line that says "on Saturday night," 12:36:38PM</p> <p>13 all the way through to four lines up from the 12:36:40PM</p> <p>14 end of that first paragraph. 12:36:43PM</p> <p>15 MR. CONNOLLY: You mean second 12:36:46PM</p> <p>16 sentence? 12:36:47PM</p> <p>17 MR. GOODSTADT: All of the sentences, 12:36:48PM</p> <p>18 starting on the second sentences. 12:36:50PM</p> <p>19 A That entire paragraph you're talking 12:36:54PM</p> <p>20 about? 12:36:55PM</p> <p>21 Q Yeah, yeah. Up until the sentence 12:36:56PM</p> <p>22 that ends with the parenthetical that says "to 12:36:56PM</p> <p>23 go to the ladies' room." 12:36:59PM</p> <p>24 A "Then she knocked on the door." Okay. 12:37:04PM</p> <p>25 Q Okay. You read that whole paragraph 12:37:07PM</p>	<p>1 GEORGE HESSE</p> <p>2 and immediately took action." 12:38:12PM</p> <p>3 Do you see that? 12:38:13PM</p> <p>4 A Uh-huh. Yes. 12:38:14PM</p> <p>5 Q Did he tell you that he actually 12:38:14PM</p> <p>6 saw -- did Bud Yager tell you he actually saw 12:38:14PM</p> <p>7 Gary Bosetti take action? 12:38:17PM</p> <p>8 A No. 12:38:18PM</p> <p>9 Q Did he tell you he didn't see Gary 12:38:18PM</p> <p>10 Bosetti take action? 12:38:21PM</p> <p>11 A I believe he said he didn't see the 12:38:22PM</p> <p>12 incident. 12:38:24PM</p> <p>13 Q And the next sentence says, "He 12:38:25PM</p> <p>14 subdued this drunken individual." 12:38:27PM</p> <p>15 Do you see that? 12:38:29PM</p> <p>16 A Yes. 12:38:29PM</p> <p>17 Q Did he tell you that he saw Gary 12:38:29PM</p> <p>18 Bosetti subdue the drunken individual? 12:38:30PM</p> <p>19 A I believe he didn't. 12:38:33PM</p> <p>20 Q He told you that he did not see him? 12:38:33PM</p> <p>21 A He did not. 12:38:36PM</p> <p>22 Q So is there any -- any facts that he's 12:38:37PM</p> <p>23 stating about what happened the night before did 12:38:43PM</p> <p>24 he actually see? 12:38:48PM</p> <p>25 A I believe no. 12:38:50PM</p>
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<p>1 GEORGE HESSE</p> <p>2 up until that line? 12:37:11PM</p> <p>3 A You're talking about from "on 12:37:13PM</p> <p>4 Saturday" to "she knocked on the door"? Or you 12:37:14PM</p> <p>5 want me to read the entire paragraph? 12:37:18PM</p> <p>6 Q Yeah, keep going. 12:37:20PM</p> <p>7 A Okay. 12:37:37PM</p> <p>8 Q Now, up until that sentence that ends 12:37:38PM</p> <p>9 "to go to the ladies' room" -- do you see that? 12:37:40PM</p> <p>10 Bud Yager told you he did not witness any of 12:37:44PM</p> <p>11 that, correct? 12:37:46PM</p> <p>12 MR. NOVIKOFF: Objection. 12:37:48PM</p> <p>13 A Yeah, I believe that's what he said to 12:37:50PM</p> <p>14 me. 12:37:51PM</p> <p>15 Q And then the next sentence that says, 12:37:52PM</p> <p>16 "With that, this man lunged at my wife with his 12:37:53PM</p> <p>17 hands on my wife's throat. Jeanne was knocked 12:37:55PM</p> <p>18 into the men's room door." 12:37:57PM</p> <p>19 Do you see that? 12:37:59PM</p> <p>20 A Yes. 12:37:59PM</p> <p>21 Q Again, he did not -- he told you he 12:38:00PM</p> <p>22 did not witness that, correct? 12:38:02PM</p> <p>23 A Right. 12:38:03PM</p> <p>24 Q Then next sentence says, "Ocean Beach 12:38:04PM</p> <p>25 Police Officer Gary Bosetti saw the situation 12:38:05PM</p>	<p>1 GEORGE HESSE</p> <p>2 MR. CONNOLLY: Based upon what he told 12:38:51PM</p> <p>3 you? 12:38:53PM</p> <p>4 THE WITNESS: Correct. 12:38:53PM</p> <p>5 BY MR. GOODSTADT: 12:38:55PM</p> <p>6 Q Did you ask him whether he saw Gary 12:38:55PM</p> <p>7 Bosetti use a pool cue at any point? 12:38:59PM</p> <p>8 A I don't recall if I did or not. 12:39:01PM</p> <p>9 Q Did he mention anything about a pool 12:39:03PM</p> <p>10 cue in your discussions? 12:39:04PM</p> <p>11 A I don't recall if he did or not. 12:39:06PM</p> <p>12 Q Did you ask Bud Yager why he hadn't 12:39:12PM</p> <p>13 spoken to any of the police officers who showed 12:39:17PM</p> <p>14 up that night? 12:39:19PM</p> <p>15 MR. NOVIKOFF: Objection to form. 12:39:20PM</p> <p>16 BY MR. GOODSTADT: 12:39:21PM</p> <p>17 Q The on-duty police officers? 12:39:21PM</p> <p>18 MR. NOVIKOFF: Objection to form. 12:39:24PM</p> <p>19 A I don't recall if I asked him that or 12:39:25PM</p> <p>20 not. 12:39:27PM</p> <p>21 Q Did you ask him why he didn't give a 12:39:27PM</p> <p>22 statement that night to the police? 12:39:29PM</p> <p>23 MR. NOVIKOFF: Objection to form. 12:39:32PM</p> <p>24 A I don't recall if I did or not. 12:39:33PM</p> <p>25 Q Do you know whether he gave a 12:39:35PM</p>

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1 **GEORGE HESSE**

2 **statement that night to the police? 12:39:37PM**

3 A I'm assuming no, because there's 12:39:39PM

4 though statement. 12:39:41PM

5 **Q Now, I see that this memo is addressed 12:39:45PM**

6 **to Chief Paradiso. 12:39:47PM**

7 **Do you see that? 12:39:48PM**

8 A Yes. 12:39:49PM

9 **Q Did you inform Chief Paradiso that 12:39:50PM**

10 **this memo came in? 12:39:51PM**

11 A Yes. 12:39:53PM

12 **Q When? 12:39:54PM**

13 A I don't recall when. 12:39:54PM

14 **Q Was it on that day? 12:39:55PM**

15 A Yes. 12:39:56PM

16 **Q Was it before you faxed back to Bud 12:39:56PM**

17 **Yager, please call me? 12:40:00PM**

18 A I think it was after. 12:40:02PM

19 **Q Do you recall Paradiso's response when 12:40:04PM**

20 **you told him this fax came in? 12:40:06PM**

21 A I don't remember his response. 12:40:08PM

22 **Q Did you tell Paradiso about it before 12:40:10PM**

23 **or after you actually spoke with Bud Yager? 12:40:12PM**

24 A It may have been after I spoke to Bud. 12:40:16PM

25 **Q Did you ask him how he heard that Rich 12:40:21PM**

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1 **GEORGE HESSE**

2 **Bosetti lost his job -- strike that. 12:40:23PM**

3 **Did you ask him how he learned that 12:40:26PM**

4 **Gary Bosetti lost his job? 12:40:29PM**

5 MR. NOVIKOFF: You're talking about 12:40:32PM

6 Bud Yager now? 12:40:33PM

7 MR. GOODSTADT: Bud Yeager. 12:40:34PM

8 MR. NOVIKOFF: Okay. 12:40:35PM

9 A Now, I don't recall if I did. 12:40:35PM

10 **Q Did you tell you how he learned that? 12:40:36PM**

11 A I don't recall. 12:40:40PM

12 **Q Do you know whether anyone asked him 12:40:41PM**

13 **to send in a statement? 12:40:43PM**

14 A No. 12:40:46PM

15 **Q Did you take any notes of your phone 12:40:47PM**

16 **call with Yager? 12:40:49PM**

17 MR. CONNOLLY: Objection. Asked and 12:40:50PM

18 answered. 12:40:51PM

19 MR. NOVIKOFF: Objection. Asked and 12:40:52PM

20 answered. 12:40:53PM

21 A No. 12:40:54PM

22 **Q You didn't? 12:40:54PM**

23 **How long did that call last? 12:40:56PM**

24 MR. CONNOLLY: Objection. Asked and 12:40:57PM

25 answered. 12:40:58PM

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1 **GEORGE HESSE**

2 But you can answer. 12:40:58PM

3 A It was several minutes. I don't 12:41:00PM

4 really recall how long it was. 12:41:01PM

5 **Q Did you ask him what he did after 12:41:15PM**

6 **leaving Houser's that night? 12:41:18PM**

7 A You know, I don't recall if I did or 12:41:20PM

8 not. 12:41:22PM

9 **Q Did he tell you what he did after he 12:41:22PM**

10 **left Houser's? 12:41:25PM**

11 A I don't recall. 12:41:26PM

12 **Q Did you credit his statement as part 12:41:32PM**

13 **of your investigation? 12:41:34PM**

14 A Did I credit? 12:41:36PM

15 **Q Yeah. Did you believe the statement? 12:41:38PM**

16 A I believed it, yes. 12:41:41PM

17 **Q Did you give it any weight in terms of 12:41:43PM**

18 **reaching a conclusion to your investigation? 12:41:45PM**

19 MR. NOVIKOFF: Objection to form. 12:41:48PM

20 A It gave me a way to go. 12:41:49PM

21 **Q What do you mean by that? 12:41:51PM**

22 A It gave me a lead on what may have 12:41:52PM

23 transpired that night to precipitate what 12:41:55PM

24 everybody was claiming about Gary Bosetti. 12:42:00PM

25 **Q And other than for that one phone 12:42:05PM**

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1 **GEORGE HESSE**

2 **call, did you ever speak with Bud Yager on any 12:42:06PM**

3 **other occasion about Halloween? 12:42:09PM**

4 MR. NOVIKOFF: About the Halloween 12:42:11PM

5 incident. 12:42:12PM

6 MR. GOODSTADT: Yeah. 12:42:13PM

7 MR. NOVIKOFF: Okay. 12:42:16PM

8 A You know, I don't believe I spoke to 12:42:17PM

9 him again after that day. 12:42:18PM

10 **Q About anything? 12:42:23PM**

11 A Yeah, I don't believe so. 12:42:25PM

12 **Q As the investigator -- strike that. 12:42:27PM**

13 **Were you the only investigator at this 12:42:30PM**

14 **time on the case? 12:42:31PM**

15 A At this point, yes. 12:42:32PM

16 **Q Okay. As the sole investigator, how 12:42:33PM**

17 **come you didn't take any notes with respect to 12:42:36PM**

18 **your interaction with Mr. Yager? 12:42:38PM**

19 MR. NOVIKOFF: Objection to form. I 12:42:41PM

20 think it's asked and answered, but form as 12:42:42PM

21 well. 12:42:44PM

22 A Yeah, like I said, I didn't think it 12:42:45PM

23 was necessary because all I would've been doing 12:42:46PM

24 was rewriting basically what he had already sent 12:42:49PM

25 me. 12:42:53PM

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<p>1 GEORGE HESSE</p> <p>2 MR. GOODSTADT: This would be a good 12:42:53PM</p> <p>3 time to take that break. 12:42:54PM</p> <p>4 MR. CONNOLLY: Sure. 12:42:55PM</p> <p>5 MR. NOVIKOFF: Okay. 12:42:56PM</p> <p>6 THE VIDEOGRAPHER: The time is 12:44. 12:42:57PM</p> <p>7 We're off the record. 12:42:59PM</p> <p>8 (Whereupon, a lunch break was taken.) 12:43:00PM</p> <p>9 THE VIDEOGRAPHER: The time is 1:47. 1:45:52PM</p> <p>10 We're on the record. 1:45:52PM</p> <p>11 BY MR. GOODSTADT: 1:45:55PM</p> <p>12 Q Mr. Hesse, before our break, you had 1:45:56PM</p> <p>13 mentioned that on the Sunday before going back 1:45:59PM</p> <p>14 to the beach on Monday after Halloween, that you 1:46:02PM</p> <p>15 reached out to Fiorillo, you spoke with him, and 1:46:07PM</p> <p>16 you reached out to Lamm and spoke with him, 1:46:09PM</p> <p>17 correct? 1:46:13PM</p> <p>18 A Correct. 1:46:13PM</p> <p>19 Q Okay. Did you reach out to Snyder? 1:46:13PM</p> <p>20 A I believe I tried. I was unable to 1:46:15PM</p> <p>21 get into contact with him. 1:46:20PM</p> <p>22 Q So did you speak with him at all 1:46:21PM</p> <p>23 before coming back to the beach that Monday? 1:46:23PM</p> <p>24 A I don't recall. 1:46:26PM</p> <p>25 Q You don't recall one way or the other? 1:46:26PM</p>	<p>1 GEORGE HESSE</p> <p>2 Q Was that on the phone or in person? 1:47:09PM</p> <p>3 A I believe it was in person. 1:47:11PM</p> <p>4 Q Where were you located? 1:47:13PM</p> <p>5 A In the police station. 1:47:15PM</p> <p>6 Q Was he there specifically to speak 1:47:19PM</p> <p>7 about the Halloween incident or was he there on 1:47:21PM</p> <p>8 some other business? 1:47:24PM</p> <p>9 MR. NOVIKOFF: Objection. 1:47:26PM</p> <p>10 A I don't recall. 1:47:27PM</p> <p>11 Q Tell me everything you recall 1:47:29PM</p> <p>12 discussing with Joe Loeffler during that 1:47:30PM</p> <p>13 conversation. 1:47:33PM</p> <p>14 A I think I just pretty much told him 1:47:33PM</p> <p>15 the story of what was going on with the incident 1:47:36PM</p> <p>16 and basically what I had found out, and that was 1:47:40PM</p> <p>17 pretty much it. He just said good job, pretty 1:47:46PM</p> <p>18 much, and walked out. 1:47:49PM</p> <p>19 Q Did he tell you that he was at the 1:47:50PM</p> <p>20 police station that night? 1:47:52PM</p> <p>21 A You know, I don't recall if he did. 1:47:54PM</p> <p>22 Q Did you ever discuss with him the fact 1:47:56PM</p> <p>23 that he was at the police station that night? 1:47:58PM</p> <p>24 A Yes. 1:48:00PM</p> <p>25 Q When did you discuss that with him? 1:48:01PM</p>
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<p>1 GEORGE HESSE</p> <p>2 A No. 1:46:28PM</p> <p>3 Q Okay. And I just point you back to 1:46:29PM</p> <p>4 Hesse 14. Do you see that there's an indicated 1:46:32PM</p> <p>5 copy to Natalie Rogers? 1:46:36PM</p> <p>6 Do you see that? 1:46:37PM</p> <p>7 A Yes, I do. 1:46:38PM</p> <p>8 Q Do you know whether she ever received 1:46:39PM</p> <p>9 a copy of this memo? 1:46:41PM</p> <p>10 A I do not. 1:46:43PM</p> <p>11 Q Did you ever speak to her about this 1:46:43PM</p> <p>12 memo? 1:46:45PM</p> <p>13 A I don't think, no. 1:46:46PM</p> <p>14 Q Did you ever speak with Natalie Rogers 1:46:47PM</p> <p>15 at all about the Halloween incident? 1:46:49PM</p> <p>16 A I don't recall. 1:46:52PM</p> <p>17 Q So you don't recall one way or the 1:46:53PM</p> <p>18 other? 1:46:54PM</p> <p>19 A No. 1:46:55PM</p> <p>20 Q Did you ever speak with Joe Loeffler 1:46:55PM</p> <p>21 about the Halloween incident? 1:46:57PM</p> <p>22 A Yes. 1:46:59PM</p> <p>23 Q When did you speak with him about 1:47:01PM</p> <p>24 Halloween? 1:47:02PM</p> <p>25 A I think it was a week after. 1:47:05PM</p>	<p>1 GEORGE HESSE</p> <p>2 A Probably -- it was within the last two 1:48:08PM</p> <p>3 years at some point. I don't know specifically 1:48:09PM</p> <p>4 with the dates. 1:48:11PM</p> <p>5 Q After you were served with the 1:48:12PM</p> <p>6 complaint in this lawsuit or before? 1:48:14PM</p> <p>7 A I think so, yes. 1:48:16PM</p> <p>8 Q What did he say about that? 1:48:17PM</p> <p>9 A He said that he was in the police 1:48:19PM</p> <p>10 station. I guess he was running rescue that 1:48:20PM</p> <p>11 night and he was the ambulance driver, and he 1:48:23PM</p> <p>12 was inside the police station at some point. 1:48:25PM</p> <p>13 Q Did he tell you anything he witnessed 1:48:28PM</p> <p>14 inside the police station or anything that was 1:48:29PM</p> <p>15 said? 1:48:31PM</p> <p>16 A Not that I recall, no. 1:48:32PM</p> <p>17 Q What did he say to you about his 1:48:33PM</p> <p>18 experience being at the police station that 1:48:35PM</p> <p>19 night? 1:48:36PM</p> <p>20 A He basically just said he walked in 1:48:37PM</p> <p>21 and dropped off some bags, and he went back out 1:48:39PM</p> <p>22 into the rig to watch the rig, just to watch the 1:48:42PM</p> <p>23 ambulance. He's the driver, so... 1:48:47PM</p> <p>24 Q Did he discuss with you at all the 1:48:49PM</p> <p>25 injuries that were sustained by anybody who was 1:48:51PM</p>

<p style="text-align: right;">Page 438</p> <p>1 GEORGE HESSE</p> <p>2 in the altercation? 1:48:53PM</p> <p>3 MR. NOVIKOFF: Objection. Form. 1:48:55PM</p> <p>4 A Not that I recall. 1:48:56PM</p> <p>5 Q During the break that we just took, 1:49:04PM</p> <p>6 did you speak with Ken Novikoff at all? 1:49:06PM</p> <p>7 A I think so, yeah. 1:49:10PM</p> <p>8 Q What was discussed between you and 1:49:11PM</p> <p>9 Mr. Novikoff? 1:49:13PM</p> <p>10 A I don't recall, to tell you the truth. 1:49:15PM</p> <p>11 Small talk. 1:49:17PM</p> <p>12 Q You don't recall anything that was 1:49:18PM</p> <p>13 discussed in small talk? 1:49:20PM</p> <p>14 A No. 1:49:21PM</p> <p>15 Q So you don't recall a conversation 1:49:22PM</p> <p>16 that happened between 10 and 40 minutes ago? 1:49:23PM</p> <p>17 A No. I think we were just talking 1:49:28PM</p> <p>18 about allowing you more time and calling the 1:49:30PM</p> <p>19 judge. Most of the conversation was between 1:49:33PM</p> <p>20 counsel. 1:49:34PM</p> <p>21 Q Anything else you recall of a 1:49:37PM</p> <p>22 discussion between you and Mr. Novikoff? 1:49:39PM</p> <p>23 A No. 1:49:43PM</p> <p>24 Q So after you spoke with Bud Yager, you 1:49:47PM</p> <p>25 testified that his wife called back an hour 1:49:52PM</p>	<p style="text-align: right;">Page 440</p> <p>1 GEORGE HESSE</p> <p>2 her to put that down in writing and fax it to me 1:50:54PM</p> <p>3 if she could. 1:50:56PM</p> <p>4 Q Did you take any notes of what she 1:51:01PM</p> <p>5 explained to you occurred? 1:51:04PM</p> <p>6 A No. 1:51:05PM</p> <p>7 Q How long was the call? 1:51:05PM</p> <p>8 A It was over the course of several 1:51:07PM</p> <p>9 minutes. 1:51:09PM</p> <p>10 Q Just so I'm clear, you're the sole 1:51:11PM</p> <p>11 investigator on the case, you have a phone 1:51:14PM</p> <p>12 conversation with an alleged victim of a 1:51:17PM</p> <p>13 choking, and you didn't take any notes; is that 1:51:20PM</p> <p>14 correct? 1:51:22PM</p> <p>15 A That's correct. 1:51:23PM</p> <p>16 MR. CONNOLLY: Objection. 1:51:24PM</p> <p>17 BY MR. GOODSTADT: 1:51:25PM</p> <p>18 Q What did she tell you on that call? 1:51:25PM</p> <p>19 A She basically said that she was 1:51:29PM</p> <p>20 standing first in line for the women's bathroom. 1:51:30PM</p> <p>21 That she was waiting for a long time, several 1:51:35PM</p> <p>22 minutes, maybe 15 minutes. She kept knocking on 1:51:37PM</p> <p>23 the door with no response. A line had developed 1:51:41PM</p> <p>24 behind her of other women waiting to go to the 1:51:44PM</p> <p>25 bathroom. Eventually, the door flew open. A 1:51:47PM</p>
<p style="text-align: right;">Page 439</p> <p>1 GEORGE HESSE</p> <p>2 later, approximately; is that correct? 1:49:55PM</p> <p>3 A I think it was within an hour. 1:49:56PM</p> <p>4 Q Okay. Did you do anything with 1:49:58PM</p> <p>5 respect to the Halloween incident between the 1:49:59PM</p> <p>6 time you hung up with Bud Yager and the time 1:50:01PM</p> <p>7 that Jeanne Yager called? 1:50:04PM</p> <p>8 A I believe I said I had walked down 1:50:05PM</p> <p>9 to -- no, no, that was before Bud's fax. No. I 1:50:07PM</p> <p>10 think I just -- I was waiting for her phone 1:50:10PM</p> <p>11 call. 1:50:15PM</p> <p>12 Q Did you reach out to Snyder at all 1:50:19PM</p> <p>13 during that period? 1:50:21PM</p> <p>14 A No. 1:50:22PM</p> <p>15 Q When was the first time that another 1:50:24PM</p> <p>16 officer came on duty that morning? 1:50:26PM</p> <p>17 A I don't believe one did. 1:50:28PM</p> <p>18 Q And then at some point Jeanne Yager 1:50:36PM</p> <p>19 called you? 1:50:39PM</p> <p>20 A Yes. 1:50:39PM</p> <p>21 Q Tell me everything you recall during 1:50:40PM</p> <p>22 that phone conversation. 1:50:41PM</p> <p>23 A I basically just told her to tell me 1:50:43PM</p> <p>24 what her story was, what happened. She 1:50:46PM</p> <p>25 explained to me what had occurred, and I asked 1:50:50PM</p>	<p style="text-align: right;">Page 441</p> <p>1 GEORGE HESSE</p> <p>2 young lady came out and said something about 1:51:52PM</p> <p>3 killing you, you old bitch or something like 1:51:54PM</p> <p>4 that, to that effect, or you should die, 1:51:57PM</p> <p>5 something like that. And then apparently a 1:52:01PM</p> <p>6 boyfriend, a friend of this young female, had 1:52:05PM</p> <p>7 come out of the bathroom and didn't say 1:52:08PM</p> <p>8 anything, was holding onto the door, I believe, 1:52:12PM</p> <p>9 and then lunged at Jeanne, grabbed her by the 1:52:14PM</p> <p>10 throat and threw her into the wall or door of 1:52:18PM</p> <p>11 the men's room and was banging her off the wall. 1:52:21PM</p> <p>12 Then she said that Gary Bosetti came 1:52:25PM</p> <p>13 over, grabbed the person off of her, put him 1:52:27PM</p> <p>14 down on the floor and stopped him from choking 1:52:31PM</p> <p>15 her. 1:52:34PM</p> <p>16 Q Did she actually see Gary Bosetti put 1:52:35PM</p> <p>17 him down on the floor? 1:52:37PM</p> <p>18 MR. NOVIKOFF: Objection. 1:52:39PM</p> <p>19 A I don't know. I'd have to read her 1:52:40PM</p> <p>20 statement again. 1:52:42PM</p> <p>21 Q Well, sitting here, do you recall one 1:52:42PM</p> <p>22 way or the other whether she told you that? 1:52:44PM</p> <p>23 A No, I don't recall. 1:52:46PM</p> <p>24 Q Did you ask her whether she was 1:52:47PM</p> <p>25 drinking that night? 1:52:49PM</p>

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<p>1 GEORGE HESSE</p> <p>2 A No, I don't recall if I did or not. 1:52:50PM</p> <p>3 Q Why wouldn't you ask her that? 1:52:52PM</p> <p>4 A I didn't think it was relevant. 1:52:55PM</p> <p>5 Q You don't think it was relevant that 1:52:57PM</p> <p>6 somebody is giving you an eyewitness statement, 1:52:59PM</p> <p>7 you don't think it was relevant whether that 1:53:01PM</p> <p>8 person had been drinking during the incident 1:53:03PM</p> <p>9 that they were giving you an eyewitness 1:53:05PM</p> <p>10 statement about? 1:53:07PM</p> <p>11 MR. CONNOLLY: Objection. Asked and 1:53:07PM</p> <p>12 answered. 1:53:08PM</p> <p>13 A I didn't ask her that. 1:53:09PM</p> <p>14 Q I just want to be -- make sure I'm 1:53:10PM</p> <p>15 clear that's your answer there? 1:53:10PM</p> <p>16 MR. NOVIKOFF: Oh, I think he's been 1:53:12PM</p> <p>17 crystal clear three times already. 1:53:12PM</p> <p>18 MR. CONNOLLY: Objection. 1:53:14PM</p> <p>19 BY MR. GOODSTADT: 1:53:14PM</p> <p>20 Q You didn't think it was relevant; is 1:53:14PM</p> <p>21 that correct? 1:53:16PM</p> <p>22 A I did not ask her. 1:53:16PM</p> <p>23 MR. CONNOLLY: Objection. 1:53:17PM</p> <p>24 MR. NOVIKOFF: Objection. 1:53:17PM</p> <p>25</p>	<p>1 GEORGE HESSE</p> <p>2 Q Was it addressed to you, the fax? 1:53:54PM</p> <p>3 A You know, I don't recall if it was or 1:53:55PM</p> <p>4 not. 1:53:57PM</p> <p>5 Q Do you recall anything else that was 1:54:03PM</p> <p>6 discussed in the phone conversation that you had 1:54:04PM</p> <p>7 with Jeanne Yager that you testified to before? 1:54:08PM</p> <p>8 A I don't recall at this time. 1:54:11PM</p> <p>9 Q Is there anything you can think of 1:54:13PM</p> <p>10 that would refresh your recollection? 1:54:15PM</p> <p>11 A No. 1:54:16PM</p> <p>12 (Whereupon, Bates document 3181-3182 1:54:29PM</p> <p>13 was marked as Plaintiff's Exhibit 15 for 1:54:29PM</p> <p>14 identification, as of this date.) 1:54:29PM</p> <p>15 BY MR. GOODSTADT: 1:54:48PM</p> <p>16 Q Did Jeanne Yager tell you whether she 1:54:51PM</p> <p>17 was in the bar when the on-duty officers 1:54:54PM</p> <p>18 arrived? 1:54:56PM</p> <p>19 A I don't recall. I'd have to read her 1:55:00PM</p> <p>20 statement. 1:55:03PM</p> <p>21 Q Did you ask her whether she was at the 1:55:03PM</p> <p>22 bar when the on-duty officers arrived? 1:55:05PM</p> <p>23 A You know, I believe I did. 1:55:10PM</p> <p>24 Q Do you recall what she said? 1:55:12PM</p> <p>25 A I believe -- I remember her saying 1:55:15PM</p>
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<p>1 GEORGE HESSE</p> <p>2 BY MR. GOODSTADT: 1:53:17PM</p> <p>3 Q You didn't think it was relevant? You 1:53:18PM</p> <p>4 can answer. 1:53:18PM</p> <p>5 MR. NOVIKOFF: Objection. 1:53:18PM</p> <p>6 You can answer. 1:53:18PM</p> <p>7 A I didn't think it was relevant, I 1:53:19PM</p> <p>8 guess. 1:53:20PM</p> <p>9 Q And similar to the question I asked 1:53:22PM</p> <p>10 you about her husband, do you think it could've 1:53:24PM</p> <p>11 been -- that could have affected -- whether she 1:53:28PM</p> <p>12 was drinking alcohol or not may have affected 1:53:29PM</p> <p>13 her ability to recall events? 1:53:32PM</p> <p>14 MR. CONNOLLY: Objection to form. 1:53:34PM</p> <p>15 You can answer. 1:53:34PM</p> <p>16 A It may have. 1:53:35PM</p> <p>17 Q Did she eventually fax something to 1:53:41PM</p> <p>18 you? 1:53:43PM</p> <p>19 A Yes. 1:53:44PM</p> <p>20 Q How long after you spoke with her did 1:53:45PM</p> <p>21 she fax something to you? 1:53:47PM</p> <p>22 A I don't recall. 1:53:48PM</p> <p>23 Q Was it handwritten or typed, what she 1:53:49PM</p> <p>24 faxed to you? 1:53:52PM</p> <p>25 A Handwritten. 1:53:53PM</p>	<p>1 GEORGE HESSE</p> <p>2 that she was standing by the bathrooms when the 1:55:17PM</p> <p>3 police officers walked through the bar with one 1:55:20PM</p> <p>4 of the individuals in the altercation, but 1:55:23PM</p> <p>5 that's all I recall about that. 1:55:27PM</p> <p>6 Q Did you ask her why she didn't give a 1:55:29PM</p> <p>7 statement to the police officers that night? 1:55:31PM</p> <p>8 MR. NOVIKOFF: Objection. Form. 1:55:34PM</p> <p>9 A Yeah, later on. I believe she 1:55:35PM</p> <p>10 attempted to walk to the police station; but 1:55:37PM</p> <p>11 there was ambulance there, and she didn't want 1:55:39PM</p> <p>12 to interfere. She felt that she didn't want to 1:55:41PM</p> <p>13 bother anybody. 1:55:45PM</p> <p>14 Q She told you that? 1:55:47PM</p> <p>15 A That's -- yeah, that's what I recall. 1:55:48PM</p> <p>16 Q When did she tell you that? 1:55:51PM</p> <p>17 A I don't recall when, but I remember 1:55:52PM</p> <p>18 her saying something to that effect. 1:55:54PM</p> <p>19 Q Was it during that phone conversation? 1:55:55PM</p> <p>20 A No. No, it was after. 1:55:57PM</p> <p>21 Q How many times after that first phone 1:55:59PM</p> <p>22 conversation did you speak with Jeanne Yager 1:56:01PM</p> <p>23 about the Halloween incident? 1:56:03PM</p> <p>24 A Over the course of four and a half 1:56:05PM</p> <p>25 years, I don't know, 20 times. 1:56:08PM</p>

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1 GEORGE HESSE

2 Q And when was the first time she told 1:56:14PM

3 you that she didn't want to bother anybody? 1:56:16PM

4 A It may have been at her house when 1:56:19PM

5 John Cherry and myself went there. 1:56:25PM

6 Q Did she tell you who she tried to go 1:56:36PM

7 to the police station with, if anyone? 1:56:38PM

8 A Yeah, I believe Rich Bosetti. 1:56:41PM

9 Q She tried to go with Rich Bosetti? 1:56:43PM

10 A Yes. 1:56:45PM

11 Q Did she tell you where she went when 1:56:46PM

12 she didn't want to bother anyone and stop into 1:56:49PM

13 the police station? 1:56:51PM

14 A Well, I think her and her husband had 1:56:52PM

15 walked down to CJ's. And Richie, I believe, 1:56:54PM

16 approached them and said, you know, you should 1:56:57PM

17 really go tell the officers what had happened. 1:57:00PM

18 And they attempted to do so, and then they saw 1:57:02PM

19 the ambulance; and I think they just said, well, 1:57:06PM

20 we'll do it later or something. I'm 1:57:08PM

21 speculating, but -- 1:57:10PM

22 MR. CONNOLLY: Don't speculate. 1:57:11PM

23 THE WITNESS: Sorry. 1:57:13PM

24 MR. CONNOLLY: Just testify upon your 1:57:13PM

25 knowledge. 1:57:14PM

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1 GEORGE HESSE

2 A Yeah, they just turned around. 1:57:15PM

3 Q Did she tell you how long after the 1:57:16PM

4 alleged choke that she tried to go to the police 1:57:19PM

5 station? 1:57:22PM

6 A No, I don't recall. 1:57:22PM

7 Q Did you ask her whether she had any 1:57:23PM

8 drinks in CJ's? 1:57:25PM

9 A No, I don't recall. 1:57:28PM

10 Q Did you ask her why she didn't try to 1:57:43PM

11 give a statement to the officers when she was in 1:57:46PM

12 the bar and the on-duty officers walked through 1:57:48PM

13 the bar? 1:57:51PM

14 A Yeah. At some point, Rich Bosetti had 1:57:53PM

15 gone outside to make contact with the three 1:57:55PM

16 police officers that were on duty, Fiorillo, 1:57:58PM

17 Lamm and Snyder, to address them and say that 1:58:01PM

18 Jean Yager was choked inside the bar, that they 1:58:03PM

19 may want to talk to them. And I believe the 1:58:07PM

20 response was no one was choked. I could never 1:58:09PM

21 ascertain who said it. Tom Snyder denied it, 1:58:15PM

22 and Chris -- they said that Christopher 1:58:18PM

23 Shallick, who was one of the individuals 1:58:23PM

24 involved in this incident, said it. 1:58:25PM

25 Q Said what? 1:58:27PM

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1 GEORGE HESSE

2 A That no one was choked. 1:58:28PM

3 Q Okay. 1:58:30PM

4 A But I was told that Snyder said it. 1:58:30PM

5 Q But just -- I guess I didn't get what 1:58:33PM

6 you meant. Richard Bosetti went out and tried 1:58:35PM

7 to make contact with the on-duty officers? How 1:58:40PM

8 do you know that? 1:58:43PM

9 A Because that's what I was told. 1:58:44PM

10 Q By who? 1:58:46PM

11 A By the three of them at some point and 1:58:47PM

12 by Rich Bosetti. 1:58:49PM

13 Q Do you know if Rich Bosetti was 1:58:51PM

14 drinking that night? 1:58:53PM

15 A I don't know for sure. 1:58:53PM

16 Q Did you ask him? 1:58:55PM

17 A I don't recall. 1:58:56PM

18 Q Okay. And so Rich Bosetti tried to 1:58:56PM

19 make contact with them. Did he make contact, to 1:58:59PM

20 your understanding? 1:59:02PM

21 A Yes. 1:59:03PM

22 Q How did you know he made contact? 1:59:03PM

23 A I was told. 1:59:05PM

24 Q By who? 1:59:06PM

25 A By Officer Fiorillo and Gary Bos- -- 1:59:07PM

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1 GEORGE HESSE

2 Rich Bosetti. 1:59:09PM

3 Q Okay. And what was the conversation 1:59:10PM

4 that was had outside the bar? 1:59:12PM

5 A I believe Frank had said that we're 1:59:14PM

6 handling it, we'll take care of it. And then 1:59:19PM

7 Richie had spoke to Snyder and tried to explain 1:59:23PM

8 to him that someone was choked. I don't know if 1:59:26PM

9 he specifically used her name or not. And the 1:59:30PM

10 term -- and, you know, someone blurted out, no 1:59:33PM

11 one was choked. Now, Rich Bosetti says it was 1:59:37PM

12 Snyder that said it; and Snyder denies it, and 1:59:40PM

13 Snyder thinks that Christopher Shallick may have 1:59:43PM

14 said it. 1:59:47PM

15 Q And what's the basis of your belief 1:59:47PM

16 that Snyder denied it and said Christopher 1:59:49PM

17 Shallick said it? 1:59:52PM

18 A That's what they had told me. 1:59:53PM

19 Q Who told you that? 1:59:56PM

20 A I believe Snyder told me that. 1:59:57PM

21 Q Did Snyder tell you that Rich 1:59:58PM

22 Bosetti -- that Snyder asked Rich Bosetti who 1:59:59PM

23 was choked? 2:00:00PM

24 A I don't remember specifically. 2:00:01PM

25 Q Did Rich Bosetti tell you that he 2:00:02PM

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1 **GEORGE HESSE**

2 **identified who was choked? 2:00:05PM**

3 A I don't remember specifically. 2:00:07PM

4 **Q Now, if you look at Hesse 15, is this 2:00:12PM**

5 **the facsimile that came in? 2:00:15PM**

6 A Yes. 2:00:19PM

7 **Q If you look at the top corner, it says 2:00:19PM**

8 **10-29-04. 2:00:22PM**

9 **Do you see that? 2:00:23PM**

10 A Right. 2:00:24PM

11 **Q That date is not accurate, is it? 2:00:25PM**

12 A No, that can't be. 2:00:28PM

13 **Q That's before the incident actually 2:00:29PM**

14 **happened, right? 2:00:30PM**

15 A Yes. 2:00:31PM

16 **Q Do you recall what time it actually 2:00:32PM**

17 **came in? 2:00:33PM**

18 A I don't recall, no. 2:00:34PM

19 MR. NOVIKOFF: Well, there is that 2:00:34PM

20 underlining line that appears -- 2:00:36PM

21 THE WITNESS: Oh, there is, yes. 2:00:38PM

22 MR. NOVIKOFF: -- it says 10/3. Can't 2:00:38PM

23 really make out the next space. 2:00:40PM

24 A 2964 and a 1951. 2:00:44PM

25 MR. GOODSTADT: Either way, it doesn't 2:00:47PM

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1 **GEORGE HESSE**

2 make sense, because that Monday was after 2:00:48PM

3 10-30 or 31. 2:00:50PM

4 MR. NOVIKOFF: Maybe the machine was 2:00:52PM

5 broken. 2:00:53PM

6 BY MR. GOODSTADT: 2:00:55PM

7 **Q Do you know why she wrote it to Ed 2:00:55PM**

8 **Paradiso instead of you? 2:01:00PM**

9 A I don't know. 2:01:02PM

10 **Q Did you ever ask her? 2:01:02PM**

11 A No. 2:01:03PM

12 **Q So this fax was in response to your 2:01:07PM**

13 **asking her to fax something in? 2:01:09PM**

14 A Yes. 2:01:11PM

15 **Q Did she mention who else she was with 2:01:19PM**

16 **on that line? 2:01:21PM**

17 A I believe she did, but she didn't know 2:01:26PM

18 who they were by name. 2:01:27PM

19 **Q So when you spoke to her, she told you 2:01:31PM**

20 **she didn't know who she was with by name? 2:01:33PM**

21 A She wasn't with anybody in particular, 2:01:36PM

22 just other women waiting on line. 2:01:38PM

23 **Q Okay. That's what she told you? 2:01:40PM**

24 A That's what I recall. 2:01:44PM

25 **Q Do you know whether she sought medical 2:01:50PM**

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1 **GEORGE HESSE**

2 **attention that night? 2:01:53PM**

3 A Repeat that. 2:01:56PM

4 **Q Did she -- did she indicate whether 2:01:58PM**

5 **she sought medical attention that night? 2:02:00PM**

6 A She did not. 2:02:02PM

7 **Q She did not. 2:02:03PM**

8 **Did you ask Richie Bosetti why he 2:02:04PM**

9 **didn't bring her into the station that night? 2:02:08PM**

10 A I believe I was told that they were 2:02:11PM

11 going to wait until the ambulance had left, but 2:02:17PM

12 then I don't think -- it never happened anyway, 2:02:20PM

13 so I don't know. 2:02:22PM

14 **Q So when the ambulance left, they 2:02:24PM**

15 **didn't go back; is that your testimony? 2:02:25PM**

16 A Right. 2:02:27PM

17 **Q Okay. Do you know why they didn't go 2:02:28PM**

18 **back? 2:02:30PM**

19 A I don't -- I don't know. 2:02:30PM

20 **Q Did you ask Rich Bosetti why? 2:02:32PM**

21 A I don't recall if I did. 2:02:33PM

22 **Q Did you ask Jean Yager why? 2:02:34PM**

23 A I don't recall if I did or not. 2:02:38PM

24 **Q Did you ask Bud Yager why? 2:02:40PM**

25 A I don't recall if I did or not. 2:02:43PM

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1 **GEORGE HESSE**

2 **Q Did you ask Rich Bosetti why he didn't 2:02:52PM**

3 **bring Jeanne Yager over to the on-duty officers 2:02:54PM**

4 **at Houser's? 2:02:58PM**

5 A I don't recall if I did or not. 2:02:59PM

6 **Q So you don't know one way or the 2:03:02PM**

7 **other? 2:03:03PM**

8 A No, I don't. 2:03:05PM

9 **Q Did he tell you why he didn't bring 2:03:06PM**

10 **her over to them at Houser's? 2:03:08PM**

11 A No. 2:03:10PM

12 MR. CONNOLLY: "Them" being the 2:03:10PM

13 officers at the scene? 2:03:11PM

14 BY MR. GOODSTADT: 2:03:12PM

15 **Q Rich Bosetti didn't bring Jean Yager 2:03:12PM**

16 **over to the on-duty officers at the scene. 2:03:15PM**

17 A Yeah, I don't recall. 2:03:18PM

18 **Q Did you ask him? 2:03:18PM**

19 A I don't recall if I did or not. 2:03:20PM

20 MR. GOODSTADT: Why don't we take a 2:03:32PM

21 break here and try to get in touch with the 2:03:33PM

22 judge. 2:03:35PM

23 THE VIDEOGRAPHER: The time is 2:05. 2:03:36PM

24 We're off the record. 2:03:37PM

25 (Whereupon, a discussion was held off 2:03:40PM

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1 GEORGE HESSE

2 the record.) 2:03:40PM

3 THE VIDEOGRAPHER: The time is 2:09. 2:07:43PM

4 We're on the record. 2:07:44PM

5 BY MR. GOODSTADT: 2:07:49PM

6 Q Now, when this fax came in from Jeanne 2:07:49PM

7 Yager, did you discuss it with anybody on that 2:07:52PM

8 day, other than for what you already testified 2:07:55PM

9 to with your conversation with her? 2:07:58PM

10 A I don't recall. 2:08:01PM

11 Q Did you speak to her after she faxed 2:08:02PM

12 it in on that day? 2:08:05PM

13 A I don't recall. 2:08:07PM

14 Q And at the time this fax came in, had 2:08:09PM

15 you put anybody else on the investigation with 2:08:13PM

16 you or were you still the sole investigator? 2:08:15PM

17 A I was still alone. 2:08:18PM

18 Q And after this fax came in, what was 2:08:20PM

19 the next -- well, strike that. 2:08:24PM

20 How long was it between you got off 2:08:26PM

21 the phone with her and the fax came in? 2:08:29PM

22 A I don't recall. 2:08:31PM

23 Q Did you do anything with respect to 2:08:31PM

24 the investigation between getting off the phone 2:08:32PM

25 with Jeanne Yager and Hesse 15 being faxed in? 2:08:35PM

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1 GEORGE HESSE

2 A I don't remember. 2:08:41PM

3 Q So what was the next thing you recall 2:08:42PM

4 doing with respect to the Halloween incident 2:08:45PM

5 after receiving this fax? 2:08:47PM

6 A You know what, I really don't recall 2:09:02PM

7 what I did right after. 2:09:04PM

8 Q Do you recall anything else you did on 2:09:05PM

9 that day? 2:09:07PM

10 A I believe -- I think I called either 2:09:09PM

11 Bud or Jeanne back at some point, and I asked if 2:09:12PM

12 they remember if anybody else was at the bar and 2:09:17PM

13 who it was, who was bartending. 2:09:20PM

14 Q You don't recall which person you 2:09:25PM

15 called back and asked that to? 2:09:27PM

16 A It was probably Jeanne, because I 2:09:29PM

17 couldn't get in touch with Bud from the 2:09:30PM

18 beginning, so... 2:09:33PM

19 Q And what did she say in response to 2:09:36PM

20 that question? 2:09:38PM

21 A She gave me some names. 2:09:39PM

22 Q What name did she give you? 2:09:42PM

23 A I believe Dan McKenna was the 2:09:43PM

24 bartender. She said Ian Levine was there. She 2:09:46PM

25 said Cara McKenna was there. I don't recall too 2:09:56PM

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1 GEORGE HESSE

2 many other names. She said she didn't know a 2:09:59PM

3 lot of people there. 2:10:03PM

4 Q And had you known Don McKenna before 2:10:04PM

5 that time? 2:10:08PM

6 A Dan. 2:10:09PM

7 Q Dan McKenna? I apologize. 2:10:10PM

8 A Yeah, I knew Dan. 2:10:11PM

9 Q From being a bartender there or were 2:10:12PM

10 you personal friends? 2:10:15PM

11 MR. NOVIKOFF: Objection. 2:10:16PM

12 MR. CONNOLLY: Objection, or something 2:10:17PM

13 else. 2:10:19PM

14 A I'm not personal friends with Dan 2:10:19PM

15 McKenna. He's a member of the fire service over 2:10:19PM

16 there, ambulance corps. 2:10:23PM

17 Q Had you known Cara McKenna prior to 2:10:24PM

18 then? 2:10:27PM

19 A Yes. 2:10:28PM

20 Q How did you know her? 2:10:29PM

21 A She is a long-time resident. She's 2:10:30PM

22 been born there. I know her parents. She also 2:10:32PM

23 works in the village office. She's also a 2:10:35PM

24 member of the fire service and ambulance corps. 2:10:38PM

25 Q What did she do in the village office? 2:10:40PM

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1 GEORGE HESSE

2 A Secretarial. 2:10:43PM

3 Q And Ian Levine you knew before then, 2:10:48PM

4 correct? 2:10:51PM

5 A Yes. 2:10:51PM

6 Q He's the same Ian Levine that you 2:10:52PM

7 worked for at Sky Cable? 2:10:54PM

8 A Yes. 2:10:56PM

9 Q Did she tell you anything else during 2:10:56PM

10 that phone conversation other than for those 2:10:57PM

11 couple names? 2:11:00PM

12 A Not that I recall, no. 2:11:01PM

13 Q Do you recall anything else that was 2:11:03PM

14 discussed between the two of you during that 2:11:04PM

15 phone conversation? 2:11:06PM

16 A I don't recall. 2:11:07PM

17 Q Did you take any notes of that phone 2:11:07PM

18 conversation? 2:11:09PM

19 MR. NOVIKOFF: The second conversation 2:11:12PM

20 with Jeanne Yager? 2:11:13PM

21 MR. GOODSTADT: When he called her 2:11:15PM

22 back. 2:11:17PM

23 MR. NOVIKOFF: Got it. 2:11:18PM

24 MR. GOODSTADT: We already went 2:11:18PM

25 through the first, was no notes. 2:11:18PM

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<p>1 GEORGE HESSE</p> <p>2 A Yeah, I don't recall if I took notes. 2:11:18PM</p> <p>3 Q If you took some notes, where would 2:11:20PM</p> <p>4 they be kept? 2:11:22PM</p> <p>5 A They should be in the file. If I took 2:11:24PM</p> <p>6 any notes, they would be in the file. 2:11:26PM</p> <p>7 Q Did you keep like a notebook in 2:11:28PM</p> <p>8 connection with this investigation? 2:11:30PM</p> <p>9 A No. 2:11:31PM</p> <p>10 Q So what would you have taken notes on? 2:11:33PM</p> <p>11 A Maybe just a piece of scrap paper or 2:11:35PM</p> <p>12 something. 2:11:38PM</p> <p>13 Q Sitting here today, you don't recall 2:11:42PM</p> <p>14 one way or the other whether there were notes of 2:11:43PM</p> <p>15 that conversation? 2:11:45PM</p> <p>16 A No, I don't recall. 2:11:46PM</p> <p>17 Q What was the next thing you did after 2:11:50PM</p> <p>18 speaking with Jeanne Yager that day with respect 2:11:52PM</p> <p>19 to Halloween incident? 2:11:54PM</p> <p>20 A Repeat that question. I'm sorry. 2:11:58PM</p> <p>21 Q Yeah, after you spoke with Jeanne 2:12:00PM</p> <p>22 Yager for the second time, what was the next 2:12:02PM</p> <p>23 thing you did that day with respect to the 2:12:05PM</p> <p>24 Halloween investigation? 2:12:08PM</p> <p>25 A I believe I reached out to Ian Levine 2:12:10PM</p>	<p>1 GEORGE HESSE</p> <p>2 A Just the end part. He didn't see the 2:13:11PM</p> <p>3 beginning. 2:13:15PM</p> <p>4 Q What end part did he tell you he 2:13:15PM</p> <p>5 witnessed? 2:13:18PM</p> <p>6 A That Bosetti was over -- either 2:13:19PM</p> <p>7 standing over or squatting over. I'd have to 2:13:24PM</p> <p>8 read his statement to recall. He remembers 2:13:26PM</p> <p>9 seeing his shield out, and that's all I recall 2:13:28PM</p> <p>10 at this time. 2:13:30PM</p> <p>11 Q Did he tell you that he saw one of the 2:13:31PM</p> <p>12 Bosettis use a pool cue? 2:13:34PM</p> <p>13 A Not that I recall. 2:13:36PM</p> <p>14 Q Did you ask him whether he was 2:13:44PM</p> <p>15 drinking that night? 2:13:45PM</p> <p>16 A No. 2:13:46PM</p> <p>17 Q How come? 2:13:47PM</p> <p>18 A I don't recall why. 2:13:48PM</p> <p>19 Q Do you think it would be relevant if 2:13:50PM</p> <p>20 an eyewitness who was giving you a statement was 2:13:51PM</p> <p>21 drinking that night? 2:13:53PM</p> <p>22 MR. NOVIKOFF: Objection. 2:13:55PM</p> <p>23 A It could have been. 2:13:55PM</p> <p>24 Q Did you take any notes of the phone 2:13:57PM</p> <p>25 call you had with Mr. Levine? 2:13:58PM</p>
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<p>1 GEORGE HESSE</p> <p>2 to find out if he had seen anything. 2:12:12PM</p> <p>3 Q Did you get in touch with him? 2:12:19PM</p> <p>4 A Yes. 2:12:20PM</p> <p>5 Q You called him or you went the to him 2:12:22PM</p> <p>6 in person? 2:12:25PM</p> <p>7 A I called him. 2:12:25PM</p> <p>8 Q Okay. Tell me everything you recall 2:12:26PM</p> <p>9 on that phone conversation. 2:12:27PM</p> <p>10 A I asked him about the night, if he had 2:12:30PM</p> <p>11 seen anything. He said that he remembers that 2:12:32PM</p> <p>12 one of the Bosetti brothers -- a lot of people 2:12:40PM</p> <p>13 had a hard time telling between the two Bosetti 2:12:43PM</p> <p>14 brothers. But he said one of the Bosetti 2:12:46PM</p> <p>15 brothers was in a fight. He called the police 2:12:46PM</p> <p>16 department's direct number to get somebody down 2:12:48PM</p> <p>17 there quick to help out either Richie or Gary. 2:12:50PM</p> <p>18 And he said the fight was getting broken up 2:12:53PM</p> <p>19 after he hung up the phone. He said 2:12:58PM</p> <p>20 approximately, I think, 10 minutes had gone by 2:13:01PM</p> <p>21 before the police had arrived. And that's all I 2:13:03PM</p> <p>22 recall at this time. I know he gave a 2:13:06PM</p> <p>23 statement. 2:13:08PM</p> <p>24 Q Did he tell you that he witnessed any 2:13:09PM</p> <p>25 part of the fight? 2:13:10PM</p>	<p>1 GEORGE HESSE</p> <p>2 A I don't believe I did. 2:14:00PM</p> <p>3 Q How come? 2:14:01PM</p> <p>4 A Because I knew he was going to come in 2:14:01PM</p> <p>5 and give a statement, and it was just I didn't 2:14:03PM</p> <p>6 need to take notes. 2:14:05PM</p> <p>7 Q Tell me everything else you recall 2:14:14PM</p> <p>8 about the conversation you had with Mr. Levine 2:14:15PM</p> <p>9 on the phone that day. 2:14:17PM</p> <p>10 A I believe I asked him if he knew of 2:14:19PM</p> <p>11 anybody else that was there that he remembers. 2:14:21PM</p> <p>12 I think he gave me a couple more names. 2:14:26PM</p> <p>13 Q What names did he give you? 2:14:29PM</p> <p>14 A I believe he gave me Sean O'Rourke, 2:14:31PM</p> <p>15 Doug Wyckoff. I think he also -- because I 2:14:34PM</p> <p>16 asked who was -- if there were any other 2:14:37PM</p> <p>17 bartenders besides Dan. I don't recall offhand 2:14:38PM</p> <p>18 if he told me anybody else's names. 2:14:44PM</p> <p>19 Q Did you ask him why he didn't give a 2:14:48PM</p> <p>20 statement to the police that night? 2:14:50PM</p> <p>21 A I don't recall. 2:14:55PM</p> <p>22 Q Was he at the bar when the on-duty 2:14:56PM</p> <p>23 police officers arrived? 2:14:58PM</p> <p>24 A Yes. 2:15:02PM</p> <p>25 MR. NOVIKOFF: Was he told that by 2:15:04PM</p>

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<p>1 GEORGE HESSE</p> <p>2 Mr. Levine if he was at the bar. 2:15:06PM</p> <p>3 MR. GOODSTADT: Yeah. 2:15:09PM</p> <p>4 BY MR. GOODSTADT: 2:15:09PM</p> <p>5 Q Did he tell you that he was there when 2:15:09PM</p> <p>6 the on-duty police officers arrived? 2:15:11PM</p> <p>7 A Yes. 2:15:12PM</p> <p>8 Q Do you know whether he spoke with the 2:15:13PM</p> <p>9 on-duty police officers? 2:15:14PM</p> <p>10 A I don't recall. 2:15:15PM</p> <p>11 Q Did you ask whether he spoke with the 2:15:15PM</p> <p>12 on-duty police officers? 2:15:17PM</p> <p>13 A I don't recall. 2:15:19PM</p> <p>14 Q Just so I'm clear, to your 2:15:22PM</p> <p>15 understanding or knowledge, he never reached out 2:15:24PM</p> <p>16 to give a witness statement; you're the one that 2:15:29PM</p> <p>17 reached out to him, correct? 2:15:31PM</p> <p>18 A That's correct, yes. 2:15:33PM</p> <p>19 Q Do you recall anything else that was 2:15:39PM</p> <p>20 discussed during that phone conversation? 2:15:40PM</p> <p>21 A I don't recall. 2:15:46PM</p> <p>22 Q How did you know he was going to come 2:15:48PM</p> <p>23 in and give a statement? 2:15:49PM</p> <p>24 A Because I asked him to. 2:15:51PM</p> <p>25 Q Did he ever come in and give a 2:15:53PM</p>	<p>1 GEORGE HESSE</p> <p>2 husband of Dale Wyckoff, the former husband of 2:16:50PM</p> <p>3 Dale Wyckoff, father of Marissa Wyckoff, who 2:16:54PM</p> <p>4 worked in the police department; is that 2:16:58PM</p> <p>5 correct? 2:16:59PM</p> <p>6 A Yes. 2:17:00PM</p> <p>7 Q And did you reach out to Mr. Wyckoff? 2:17:01PM</p> <p>8 A I don't remember how I got in touch 2:17:07PM</p> <p>9 with him. I think I ran into him. 2:17:08PM</p> <p>10 Q You ran into him? 2:17:11PM</p> <p>11 A Yeah. 2:17:13PM</p> <p>12 Q Where? 2:17:13PM</p> <p>13 A Outside the police station. 2:17:14PM</p> <p>14 Q So the next thing you did, you're 2:17:17PM</p> <p>15 going to reach out to Doug Wyckoff and you just 2:17:19PM</p> <p>16 happen to run into him? 2:17:22PM</p> <p>17 A It's a small village. Yeah. 2:17:25PM</p> <p>18 Q Did you go outside looking for him? 2:17:26PM</p> <p>19 A You know, I don't recall. 2:17:29PM</p> <p>20 Q Was anyone else with you when you ran 2:17:32PM</p> <p>21 into Doug Wyckoff? 2:17:33PM</p> <p>22 A I don't believe so, no. 2:17:35PM</p> <p>23 Q Was anyone else with him when you ran 2:17:36PM</p> <p>24 into Doug Wyckoff? 2:17:38PM</p> <p>25 A I don't know. I don't recall. 2:17:40PM</p>
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<p>1 GEORGE HESSE</p> <p>2 statement? 2:15:55PM</p> <p>3 A Yes. 2:15:55PM</p> <p>4 Q When? 2:15:55PM</p> <p>5 A I don't know the exact date. It may 2:15:56PM</p> <p>6 have been the next day. 2:15:58PM</p> <p>7 Q That Tuesday? 2:16:00PM</p> <p>8 A It may have been. I don't know. I 2:16:01PM</p> <p>9 know you have the statements, so... 2:16:02PM</p> <p>10 Q It's your recollection it was that 2:16:05PM</p> <p>11 Tuesday? 2:16:07PM</p> <p>12 A No. I don't recall. 2:16:07PM</p> <p>13 Q Did you ask him whether he saw Gary 2:16:13PM</p> <p>14 Bosetti use a pool cue? 2:16:16PM</p> <p>15 A I didn't -- I didn't take his 2:16:18PM</p> <p>16 statement, so I don't recall, no. 2:16:21PM</p> <p>17 Q During the phone conversation you had. 2:16:22PM</p> <p>18 A You know, I don't recall. 2:16:25PM</p> <p>19 Q So after the phone conversation you 2:16:34PM</p> <p>20 had with Ian Levine, what was the next thing 2:16:35PM</p> <p>21 that you did in connection with the 2:16:38PM</p> <p>22 investigation? 2:16:40PM</p> <p>23 A Now that I knew Doug Wyckoff was 2:16:41PM</p> <p>24 there, I think I tried to locate him. 2:16:44PM</p> <p>25 Q Okay. And this is Doug Wyckoff, the 2:16:47PM</p>	<p>1 GEORGE HESSE</p> <p>2 Q And did you speak with Doug Wyckoff 2:17:40PM</p> <p>3 when you ran into him? 2:17:42PM</p> <p>4 A Yes. 2:17:44PM</p> <p>5 Q Tell me everything you recall that was 2:17:44PM</p> <p>6 stated during that discussion. 2:17:46PM</p> <p>7 A I asked him if he witnessed any of the 2:17:49PM</p> <p>8 events of that night. He said yes, that he 2:17:51PM</p> <p>9 actually got involved. And I asked if he would 2:17:54PM</p> <p>10 be willing to give a statement, and he said yes. 2:17:59PM</p> <p>11 And he came in and gave a statement. 2:18:01PM</p> <p>12 Q Did he tell you any of the events 2:18:03PM</p> <p>13 during the conversation outside that he 2:18:07PM</p> <p>14 witnessed? 2:18:09PM</p> <p>15 A I don't recall if he told me 2:18:11PM</p> <p>16 specifics. 2:18:14PM</p> <p>17 Q And had he come forward with a 2:18:17PM</p> <p>18 statement prior to you seeing him that 2:18:20PM</p> <p>19 morning -- strike that. 2:18:22PM</p> <p>20 What time of day was it? 2:18:23PM</p> <p>21 A I don't recall what time. 2:18:25PM</p> <p>22 Q But it was still that same Monday? 2:18:26PM</p> <p>23 A I believe so, yeah. 2:18:28PM</p> <p>24 Q And prior to you running into him, had 2:18:29PM</p> <p>25 he reached out to the police department at all, 2:18:31PM</p>

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1 **GEORGE HESSE**

2 **do you know, to give a statement? 2:18:34PM**

3 A Not that I know of. 2:18:36PM

4 **Q And had he given a statement prior to 2:18:37PM**

5 **that? 2:18:39PM**

6 A Not that I know of. 2:18:39PM

7 **Q Did you ask him whether he was in the 2:18:45PM**

8 **bar at the time the on-duty officers got there? 2:18:46PM**

9 A I don't recall if I asked him that 2:18:51PM

10 specific question. 2:18:53PM

11 **Q Did you ask him why he didn't give a 2:18:53PM**

12 **statement that night? 2:18:56PM**

13 A You know what, I think I did, and he 2:18:58PM

14 said that no one asked him what happened. 2:19:00PM

15 **Q Did you ask him why he didn't go to 2:19:02PM**

16 **the police station? 2:19:04PM**

17 A I don't recall if I did or not. 2:19:06PM

18 MR. GOODSTADT: Let's go off the 2:19:18PM

19 record for one second. 2:19:18PM

20 THE VIDEOGRAPHER: The time is 2:21. 2:19:20PM

21 We're off the record. 2:19:21PM

22 (Whereupon, a discussion was held off 2:22:14PM

23 the record.) 2:22:14PM

24 THE VIDEOGRAPHER: The time is 2:24. 2:22:16PM

25 We're on the record. 2:22:17PM

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1 **GEORGE HESSE**

2 BY MR. GOODSTADT: 2:22:21PM

3 **Q Do you recall anything else that was 2:22:21PM**

4 **discussed between you and Mr. Wyckoff in that 2:22:22PM**

5 **conversation outside? 2:22:25PM**

6 A Specifically, no. 2:22:26PM

7 **Q Did you take any notes of that 2:22:28PM**

8 **conversation? 2:22:30PM**

9 A No. 2:22:30PM

10 **Q Why not? 2:22:30PM**

11 A I think I took his statement. 2:22:32PM

12 **Q You took his statement outside? 2:22:33PM**

13 A No. I think we walked right into the 2:22:35PM

14 police station. 2:22:37PM

15 **Q Okay. So you took his statement on 2:22:38PM**

16 **that day? 2:22:40PM**

17 A You know, I don't recall if it was 2:22:40PM

18 that day, to tell you the truth. 2:22:42PM

19 **Q So your statement that we just walked 2:22:43PM**

20 **back to the police station and took his 2:22:43PM**

21 **statement may not be true? 2:22:43PM**

22 MR. NOVIKOFF: Objection. 2:22:48PM

23 MR. CONNOLLY: Objection. 2:22:48PM

24 A I don't recall four and a half years 2:22:50PM

25 ago. 2:22:52PM

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1 **GEORGE HESSE**

2 **Q You don't recall what day it was? 2:22:59PM**

3 A No. 2:23:01PM

4 **Q Did he definitely come into the police 2:23:07PM**

5 **station on the day that you saw him outside? 2:23:09PM**

6 A You know, I don't recall. I'm not 2:23:12PM

7 going to guess. 2:23:15PM

8 **Q Did you ask whether he was drinking? 2:23:18PM**

9 A I don't recall. 2:23:22PM

10 **Q You don't recall one way or the other? 2:23:23PM**

11 A No. 2:23:25PM

12 **Q Do you think that would be an 2:23:27PM**

13 **important fact to know, whether Mr. Wyckoff was 2:23:28PM**

14 **drinking that night? 2:23:31PM**

15 MR. NOVIKOFF: Objection. 2:23:32PM

16 A Could be. 2:23:33PM

17 **Q What do you mean, it could be? 2:23:35PM**

18 A It could be relevant. 2:23:37PM

19 **Q Why would it be relevant? 2:23:40PM**

20 MR. NOVIKOFF: Objection. 2:23:42PM

21 A May impair his judgment or his 2:23:43PM

22 recollection. 2:23:50PM

23 **Q So don't you think it of would have 2:23:54PM**

24 **been important to ask him that question? 2:23:56PM**

25 MR. NOVIKOFF: Objection. 2:23:58PM

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1 **GEORGE HESSE**

2 MR. CONNOLLY: Objection. 2:23:59PM

3 A It could've been. 2:23:59PM

4 MR. GOODSTADT: Just mark that. 2:24:02PM

5 (Whereupon, Bates document 3165-3166 2:24:03PM

6 was marked as Plaintiff's Exhibit 16 for 2:24:03PM

7 identification, as of this date.) 2:24:03PM

8 MR. GOODSTADT: I've placed in front 2:24:26PM

9 of Mr. Hesse what's now been marked as 2:24:27PM

10 Hesse 16. It is a two-page exhibit bearing 2:24:30PM

11 Bates 3165 and 3166. (Handing.) 2:24:35PM

12 BY MR. GOODSTADT: 2:24:38PM

13 **Q Mr. Hesse, is this the witness 2:24:39PM**

14 **statement that you took of Mr. Wyckoff? 2:24:40PM**

15 A Yes. 2:24:42PM

16 **Q Do you see on the bottom left it has 2:24:45PM**

17 **"name of preparing officer"? 2:24:46PM**

18 **Do you see that? 2:24:48PM**

19 A Yes. 2:24:48PM

20 **Q Is that your handwriting and 2:24:50PM**

21 **signature? 2:24:51PM**

22 A Yes. 2:24:52PM

23 **Q And you were sergeant at the time? 2:24:55PM**

24 A Yes. 2:24:57PM

25 **Q Okay. And the -- on the bottom right, 2:24:57PM**

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<p>1 GEORGE HESSE</p> <p>2 you see he signed it 11-2-04. 2:25:01PM</p> <p>3 Do you see that? 2:25:04PM</p> <p>4 A Yes. 2:25:05PM</p> <p>5 Q Is that the date that you actually 2:25:05PM</p> <p>6 took the statement? 2:25:07PM</p> <p>7 A Yes. 2:25:08PM</p> <p>8 Q Does that refresh your recollection as 2:25:09PM</p> <p>9 to whether that was the Monday? 2:25:12PM</p> <p>10 A That would have to be Tuesday, then. 2:25:14PM</p> <p>11 Q Tuesday. Okay. 2:25:17PM</p> <p>12 So just so I get a time line correct 2:25:17PM</p> <p>13 here, did you have the conversation with him 2:25:19PM</p> <p>14 outside the police station on Monday or Tuesday? 2:25:21PM</p> <p>15 A I don't recall. 2:25:24PM</p> <p>16 Q Okay. 2:25:25PM</p> <p>17 MR. NOVIKOFF: I'm sorry, is two 2:25:26PM</p> <p>18 minutes up? 2:25:29PM</p> <p>19 THE REPORTER: Yeah. 2:25:31PM</p> <p>20 MR. NOVIKOFF: I want to put on the 2:25:33PM</p> <p>21 record that I believe Mr. Goodstadt's seven 2:25:33PM</p> <p>22 hours has ended, but then again, I leave 2:25:34PM</p> <p>23 that to Mr. Connolly to decide what to do 2:25:37PM</p> <p>24 going forward. 2:25:41PM</p> <p>25 MR. CONNOLLY: Mr. Goodstadt, you can 2:25:42PM</p>	<p>1 GEORGE HESSE</p> <p>2 anyone see what happened this evening? 2:26:36PM</p> <p>3 A Repeat that. 2:26:38PM</p> <p>4 Q Did you ask him whether about of the 2:26:39PM</p> <p>5 on-duty officers went back into the bar that 2:26:40PM</p> <p>6 evening and asked generally to everyone that was 2:26:44PM</p> <p>7 there, did anyone see what happened? 2:26:46PM</p> <p>8 A I don't recall anything like that, no. 2:26:49PM</p> <p>9 Q Did you ever hear that Tom Snyder went 2:26:50PM</p> <p>10 back in the bar and asked that question? 2:26:53PM</p> <p>11 A No. 2:26:56PM</p> <p>12 Q Snyder never told you that? 2:26:58PM</p> <p>13 A No. 2:26:59PM</p> <p>14 Q If you look down -- well, strike that. 2:27:00PM</p> <p>15 Is this the -- this is the witness 2:27:03PM</p> <p>16 statement that he gave you? 2:27:04PM</p> <p>17 A Yes. 2:27:05PM</p> <p>18 Q And is this your handwriting? I know 2:27:06PM</p> <p>19 that may be his signature on the bottom right. 2:27:06PM</p> <p>20 But other than that, is this your handwriting? 2:27:08PM</p> <p>21 A Yes. 2:27:12PM</p> <p>22 Q Second page also, other than for his 2:27:12PM</p> <p>23 signature, is that your handwriting? 2:27:14PM</p> <p>24 A Yes. 2:27:16PM</p> <p>25 Q Was anyone else there when you took 2:27:16PM</p>
Page 471	Page 473
<p>1 GEORGE HESSE</p> <p>2 finish questioning regarding this exhibit. 2:25:44PM</p> <p>3 MR. GOODSTADT: Okay. Four and a half 2:25:47PM</p> <p>4 hours on this exhibit, are you okay with 2:25:50PM</p> <p>5 that? 2:25:52PM</p> <p>6 MR. NOVIKOFF: All right then. 2:25:55PM</p> <p>7 MR. CONNOLLY: Yes, four and a half 2:25:56PM</p> <p>8 hours limited to this exhibit. 2:25:58PM</p> <p>9 BY MR. GOODSTADT: 2:26:00PM</p> <p>10 Q So it's possible that there was a gap 2:26:01PM</p> <p>11 of a day between your conversation outside and 2:26:03PM</p> <p>12 the day you took his statement, correct? 2:26:05PM</p> <p>13 A Sure. 2:26:08PM</p> <p>14 Q Okay. Did you ask Mr. Wyckoff why he 2:26:08PM</p> <p>15 didn't give a statement at the bar that night? 2:26:13PM</p> <p>16 MR. NOVIKOFF: Objection. Asked and 2:26:15PM</p> <p>17 answered. 2:26:16PM</p> <p>18 A I believe he said to me that no one 2:26:20PM</p> <p>19 approached him or asked him what happened. 2:26:22PM</p> <p>20 Q Did you ask him whether he saw the 2:26:24PM</p> <p>21 on-duty officers there that night? 2:26:26PM</p> <p>22 A I don't recall. 2:26:28PM</p> <p>23 Q Did you ask him whether any of the 2:26:29PM</p> <p>24 officers went back into the bar and asked a 2:26:31PM</p> <p>25 general question to everyone in the bar, did 2:26:33PM</p>	<p>1 GEORGE HESSE</p> <p>2 his statement? 2:27:18PM</p> <p>3 A I don't recall either way. 2:27:19PM</p> <p>4 Q Do you recall what time on the 2nd he 2:27:20PM</p> <p>5 gave you this statement? 2:27:23PM</p> <p>6 A No, I don't recall. 2:27:23PM</p> <p>7 Q Do you recall what other statements 2:27:24PM</p> <p>8 you had prior to Wyckoff giving you this 2:27:26PM</p> <p>9 statement? 2:27:28PM</p> <p>10 A Say that again. 2:27:28PM</p> <p>11 Q Do you recall what other -- which 2:27:29PM</p> <p>12 other witness statements you had prior to taking 2:27:30PM</p> <p>13 Wyckoff's? 2:27:32PM</p> <p>14 A At this time, I don't recall, no. 2:27:33PM</p> <p>15 Q Is there anything that you can think 2:27:35PM</p> <p>16 of that would refresh your recollection? 2:27:36PM</p> <p>17 A The entire Halloween file. 2:27:38PM</p> <p>18 Q Anything else? 2:27:41PM</p> <p>19 A No. 2:27:42PM</p> <p>20 Q Then if you look down the fourth line 2:27:45PM</p> <p>21 down in the text there on Page 1 of Hesse 16, it 2:27:48PM</p> <p>22 says, "I observed a large male, built like a 2:27:54PM</p> <p>23 fireplug, now known to me as Christopher 2:27:57PM</p> <p>24 Shallick." 2:28:00PM</p> <p>25 Do you see that? 2:28:00PM</p>

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<p>1 GEORGE HESSE</p> <p>2 A Yes. 2:28:01PM</p> <p>3 Q "Of 63 Maple Place Huntington, New York." 2:28:02PM</p> <p>4 2:28:07PM</p> <p>5 Do you see that? 2:28:07PM</p> <p>6 A Yes. 2:28:07PM</p> <p>7 Q How did he learn that that was Christopher Shallick of 63 Maple Place, Huntington, New York? 2:28:09PM</p> <p>8 2:28:09PM</p> <p>9 2:28:09PM</p> <p>10 A I laid out a couple of licenses that these officers had photo- -- I think photocopied, and he said that was the guy right there. 2:28:10PM</p> <p>11 2:28:13PM</p> <p>12 2:28:15PM</p> <p>13 2:28:18PM</p> <p>14 Q Okay. So the fact that you laid out licenses and had like sort of a license lineup -- 2:28:18PM</p> <p>15 2:28:22PM</p> <p>16 2:28:25PM</p> <p>17 A Pretty much. 2:28:26PM</p> <p>18 Q -- that's not reflected anywhere in here, is it? 2:28:27PM</p> <p>19 2:28:29PM</p> <p>20 A No. 2:28:30PM</p> <p>21 Q In the statement? 2:28:30PM</p> <p>22 A No. 2:28:30PM</p> <p>23 Q How come? 2:28:31PM</p> <p>24 A I don't know. 2:28:33PM</p> <p>25 Q It says on this Page 2 of Exhibit 2:28:44PM</p>	<p>1 GEORGE HESSE</p> <p>2 what happened? 2:29:34PM</p> <p>3 MR. NOVIKOFF: Objection. 2:29:35PM</p> <p>4 A That's what I recall. That's what he told me. 2:29:36PM</p> <p>5 2:29:37PM</p> <p>6 Q And then in response to that, you did or did not ask him why he didn't proactively seek to give a statement to the on-duty officers? 2:29:38PM</p> <p>7 2:29:41PM</p> <p>8 2:29:44PM</p> <p>9 2:29:46PM</p> <p>10 MR. CONNOLLY: Objection to form. 2:29:47PM</p> <p>11 MR. NOVIKOFF: Objection. 2:29:49PM</p> <p>12 A I don't recall. 2:29:49PM</p> <p>13 Q You don't recall whether you did? 2:29:49PM</p> <p>14 A No. 2:29:51PM</p> <p>15 MR. GOODSTADT: I think I'm done with this exhibit for now. 2:30:07PM</p> <p>16 2:30:08PM</p> <p>17 MR. CONNOLLY: Okay. Why don't we take a two-minute break and figure out what we're going to do. 2:30:09PM</p> <p>18 2:30:10PM</p> <p>19 2:30:12PM</p> <p>20 THE VIDEOGRAPHER: The time is 2:32. 2:30:15PM</p> <p>21 We're off the record. 2:30:16PM</p> <p>22 (Whereupon, a discussion was held off the record.) 2:30:18PM</p> <p>23 2:30:18PM</p> <p>24 (Whereupon, Magistrate Boyle was called.) 2:30:18PM</p> <p>25 2:30:18PM</p>
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<p>1 GEORGE HESSE</p> <p>2 Hesse 16, the one, two, three, four, fifth line down, it says, "The doorman, Sean O'Rourke." 2:28:53PM</p> <p>3 2:28:56PM</p> <p>4 Do you see that? 2:28:58PM</p> <p>5 A Yes. 2:28:59PM</p> <p>6 Q "Doorman, Sean O'Rourke, came over to help keep Christopher out of the bar." 2:28:59PM</p> <p>7 2:29:03PM</p> <p>8 Do you see that? 2:29:05PM</p> <p>9 A Yes. 2:29:06PM</p> <p>10 Q It says, "Sean phoned the police." 2:29:07PM</p> <p>11 Do you see that? 2:29:09PM</p> <p>12 A Yes. 2:29:10PM</p> <p>13 Q Is it your understanding that Sean O'Rourke called the police that night? 2:29:11PM</p> <p>14 2:29:13PM</p> <p>15 A Yes. 2:29:15PM</p> <p>16 Q And that's a separate call than Ian Levine's? 2:29:16PM</p> <p>17 2:29:19PM</p> <p>18 A Yes. 2:29:21PM</p> <p>19 Q And then the last sentence that says, "They never asked me or anyone if I could see any questions about what happened." 2:29:21PM</p> <p>20 2:29:23PM</p> <p>21 2:29:26PM</p> <p>22 Do you see that? 2:29:29PM</p> <p>23 A Yeah. 2:29:30PM</p> <p>24 Q Is that the statement that you testified to before, that no one had asked him 2:29:31PM</p> <p>25 2:29:32PM</p>	<p>1 GEORGE HESSE</p> <p>2 MR. GOODSTADT: We are -- as you recall, we had made a motion to extend the time to take Defendant George Hesse's deposition beyond the seven hours. 3:03:01PM</p> <p>3 3:03:03PM</p> <p>4 3:03:07PM</p> <p>5 3:03:09PM</p> <p>6 THE COURT: Yes. 3:03:11PM</p> <p>7 MR. GOODSTADT: And you had denied that without prejudice with the right to renew when we reached the seven-hour point. 3:03:12PM</p> <p>8 3:03:13PM</p> <p>9 3:03:16PM</p> <p>10 And we've now reached the seven-hour point, and we'd like to renew our request for an additional four and a half hours. 3:03:18PM</p> <p>11 3:03:21PM</p> <p>12 3:03:24PM</p> <p>13 THE COURT: These are really elaborate motions because you really have to justify your -- what you have to cover and why you didn't cover it in the time allotted. And I've done opinions on this, and, you know, that's why I tried to set up a conference call last week to urge you to do some kind of a conference just to eliminate the paperwork. But if you can't agree on it, make your motion. But do your research on it. These are simple issues that you made in your motion; and if you use your same old motion, it would be denied. 3:03:26PM</p> <p>14 3:03:26PM</p> <p>15 3:03:30PM</p> <p>16 3:03:34PM</p> <p>17 3:03:38PM</p> <p>18 3:03:42PM</p> <p>19 3:03:45PM</p> <p>20 3:03:49PM</p> <p>21 3:03:53PM</p> <p>22 3:03:55PM</p> <p>23 3:03:57PM</p> <p>24 3:04:02PM</p> <p>25 3:04:04PM</p>

<p style="text-align: right;">Page 478</p> <p>1 GEORGE HESSE</p> <p>2 MR. GOODSTADT: Okay. So we'll be 3:04:07PM</p> <p>3 happy to submit a brief on the issue. 3:04:10PM</p> <p>4 THE COURT: Read the case. Are the 3:04:15PM</p> <p>5 defendants there? 3:04:16PM</p> <p>6 MR. CONNOLLY: Yes, we are, Your 3:04:17PM</p> <p>7 Honor. 3:04:17PM</p> <p>8 THE COURT: Is there any way you'll 3:04:18PM</p> <p>9 consent to like an extension of two hours or 3:04:20PM</p> <p>10 something? The defense should speak up to 3:04:22PM</p> <p>11 that. 3:04:22PM</p> <p>12 MR. CONNOLLY: Your Honor, we had 3:04:25PM</p> <p>13 offered earlier an extension of 90 minutes. 3:04:26PM</p> <p>14 We're already 20 minutes beyond the seven 3:04:29PM</p> <p>15 hours, and my understanding is we've already 3:04:31PM</p> <p>16 gotten 475 pages of deposition transcript. 3:04:31PM</p> <p>17 THE COURT: So you did your seven 3:04:37PM</p> <p>18 hours, did you? 3:04:40PM</p> <p>19 MR. CONNOLLY: And seven hours and 20 3:04:41PM</p> <p>20 minutes. 3:04:42PM</p> <p>21 THE COURT: My suggestion would be to 3:04:45PM</p> <p>22 see how you can work it out. Do you have 3:04:46PM</p> <p>23 any offer at all or do you want to go 3:04:49PM</p> <p>24 through a motion? Because you're probably 3:04:53PM</p> <p>25 going to end up submitting your second 3:04:54PM</p>	<p style="text-align: right;">Page 480</p> <p>1 GEORGE HESSE</p> <p>2 mean, even Mr. Novikoff's letter to the 3:05:44PM</p> <p>3 Court from weeks ago requesting extension of 3:05:46PM</p> <p>4 the discovery schedule demonstrated that 3:05:48PM</p> <p>5 this is a very important witness who -- you 3:05:51PM</p> <p>6 know, who defendants plan to spend several 3:05:53PM</p> <p>7 hours with as well questioning. 3:05:56PM</p> <p>8 MR. NOVIKOFF: Your Honor, this is 3:05:58PM</p> <p>9 Mr. Novikoff. 3:05:59PM</p> <p>10 I was going to hopefully remain quiet 3:06:00PM</p> <p>11 for once in my life because Mr. Hesse is not 3:06:03PM</p> <p>12 my client. But since I've been brought into 3:06:05PM</p> <p>13 this, the only thing I will say is I've 3:06:08PM</p> <p>14 taken each of the plaintiffs' depositions on 3:06:10PM</p> <p>15 the same allegations in under seven hours, 3:06:12PM</p> <p>16 and I have not asked for one extension of 3:06:14PM</p> <p>17 time for any of the plaintiffs. And also in 3:06:16PM</p> <p>18 my respectful opinion, Mr. Goodstadt has 3:06:19PM</p> <p>19 spent a considerable amount of time on 3:06:22PM</p> <p>20 either irrelevant issues or issues that 3:06:25PM</p> <p>21 really were not in dispute in terms of what 3:06:27PM</p> <p>22 he believes are relevant facts in this case. 3:06:31PM</p> <p>23 But it's Mr. Connolly's client, so other 3:06:34PM</p> <p>24 than just saying that, I'm out of it. 3:06:37PM</p> <p>25 THE COURT: Mr. Connolly, do you want 3:06:41PM</p>
<p style="text-align: right;">Page 479</p> <p>1 GEORGE HESSE</p> <p>2 deposition. 3:04:58PM</p> <p>3 MR. CONNOLLY: Your Honor, we did 3:04:58PM</p> <p>4 offer -- 3:04:58PM</p> <p>5 THE COURT: The issue being -- you 3:04:58PM</p> <p>6 know, being the length of time. 3:04:59PM</p> <p>7 MR. CONNOLLY: Your Honor, the 3:05:01PM</p> <p>8 defendant did offer an additional 3:05:02PM</p> <p>9 90 minutes. 3:05:04PM</p> <p>10 THE COURT: Is that anything you're 3:05:08PM</p> <p>11 interested in? 3:05:09PM</p> <p>12 MR. GOODSTADT: Well, Your Honor, any 3:05:10PM</p> <p>13 extra time certainly helps, but this is, as 3:05:12PM</p> <p>14 we wrote in our letter, certainly the most 3:05:14PM</p> <p>15 important witness in the entire case, who is 3:05:16PM</p> <p>16 involved with almost each and every 3:05:19PM</p> <p>17 allegation in the 193-paragraph complaint. 3:05:21PM</p> <p>18 There's thousands of pages of documents, 3:05:24PM</p> <p>19 most of which relate to this witness. I 3:05:26PM</p> <p>20 believe I've been, you know, pretty good 3:05:29PM</p> <p>21 about getting through a lot of the topics. 3:05:33PM</p> <p>22 I don't think that I've delayed or 3:05:35PM</p> <p>23 procrastinated or spent much time on 3:05:37PM</p> <p>24 anything that would be irrelevant, and 3:05:40PM</p> <p>25 there's just a lot of to go through. I 3:05:41PM</p>	<p style="text-align: right;">Page 481</p> <p>1 GEORGE HESSE</p> <p>2 to say something? 3:06:42PM</p> <p>3 MR. CONNOLLY: Yes, Your Honor. I 3:06:43PM</p> <p>4 feel what we've offered to do is more than 3:06:44PM</p> <p>5 fair. And, you know, there's been no claim 3:06:47PM</p> <p>6 that the questioning was impeded in any 3:06:49PM</p> <p>7 manner, and I feel that if it was structured 3:06:51PM</p> <p>8 in a different way, we could've been done 3:06:54PM</p> <p>9 under the seven. 3:06:56PM</p> <p>10 THE COURT: All right. My only 3:06:58PM</p> <p>11 suggestion to you -- and I'm just stating 3:07:00PM</p> <p>12 the obvious, so it's not going to be any 3:07:01PM</p> <p>13 surprise. The plaintiff is looking for 3:07:04PM</p> <p>14 another four and a half. You're offering 3:07:07PM</p> <p>15 90 minutes. Why don't you split it down to 3:07:09PM</p> <p>16 the middle and do two and a quarter hours, 3:07:12PM</p> <p>17 and you can save yourselves a lot of 3:07:14PM</p> <p>18 paperwork and indefiniteness and you can 3:07:17PM</p> <p>19 wind this up today. 3:07:21PM</p> <p>20 MR. CONNOLLY: Well, Your Honor, while 3:07:22PM</p> <p>21 I appreciate the Court's suggestion, I feel 3:07:24PM</p> <p>22 beyond 90 minutes -- 3:07:30PM</p> <p>23 THE COURT: You don't even have to 3:07:33PM</p> <p>24 comment, okay. I can't do anything else 3:07:34PM</p> <p>25 right now. So go ahead and make your motion 3:07:36PM</p>

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1 GEORGE HESSE
2 if you can't resolve it. 3:07:39PM
3 MR. GOODSTADT: Thank you, Your Honor. 3:07:41PM
4 MR. CONNOLLY: Thank you. 3:07:42PM
5 MR. NOVIKOFF: Thank you. 3:07:44PM
6 (Whereupon, a discussion was held off 3:07:44PM
7 the record.) 3:07:44PM
8 MR. GOODSTADT: After the conference 3:25:41PM
9 call we had with the Court where the Court 3:25:43PM
10 suggest we try to work something out without 3:25:46PM
11 having the need to submit written motions, 3:25:49PM
12 we have not been able to work out an 3:25:52PM
13 agreeable extension for Mr. Hesse's 3:25:56PM
14 deposition. So we plan to make a motion to 3:25:58PM
15 the Court for additional time pursuant to 3:26:00PM
16 the Judge's directive. And I guess based on 3:26:02PM
17 what the court rules, we'll determine when 3:26:06PM
18 and for how long we reconvene. 3:26:09PM
19 MR. NOVIKOFF: Just so it's clear, you 3:26:13PM
20 are keeping the deposition open. 3:26:14PM
21 MR. GOODSTADT: Yes. 3:26:16PM
22 MR. NOVIKOFF: You're not ending it, 3:26:16PM
23 and it's open subject to your application to 3:26:18PM
24 Judge Boyle for additional time. And 3:26:20PM
25 therefore, on behalf of the village 3:26:23PM

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1 GEORGE HESSE
2 defendants, I reserve my right to question 3:26:25PM
3 Mr. Heshe until such time as the deposition 3:26:28PM
4 is officially closed either by Mr. Goodstadt 3:26:31PM
5 indicating such or the Court indicating that 3:26:35PM
6 Mr. Goodstadt has no additional time. 3:26:36PM
7 MR. CONNOLLY: And so the record is 3:26:39PM
8 clear, at this juncture, we have gone on for 3:26:41PM
9 seven hours and 20 minutes. 3:26:44PM
10 MR. GOODSTADT: The record will 3:26:46PM
11 reflect how long we've gone on for. 3:26:47PM
12 MR. TERMINI: I would just simply 3:26:51PM
13 reserve any rights when it finally becomes 3:26:52PM
14 the County of Suffolk's turn. 3:26:55PM
15 (Time noted 3:26 p.m.) 3:26:59PM
16 3:26:59PM
17 GEORGE HESSE 3:26:59PM
18 3:26:59PM

Subscribed and sworn to before me 3:26:59PM
19 this day of , 2009 3:26:59PM
 3:26:59PM

20 3:26:59PM
21 3:26:59PM

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1 PROCEEDINGS
2 CERTIFICATE
3
4 I, JUDI JOHNSON, RPR, CRR, CLR, a Notary Public in
5 and for the State of New York, do hereby certify:
6 THAT the witness whose testimony is hereinbefore
7 set forth, was duly sworn by me; and
8 THAT the within transcript is a true record
9 of the testimony given by said witness. I further
10 certify that I am not related, either by blood or
11 marriage, to any of the parties to this action; and
12 THAT I am in no way interested in the outcome of
13 this matter.
14 IN WITNESS WHEREOF, I have hereunto set
15 my hand this 26th day of June, 2009.

JUDI JOHNSON, RPR, CRR, CLR

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ERRATA SHEET

NAME OF CASE: CARTER V. OCEAN BEACH

DATE OF DEPOSITION: JUNE 16, 2009

NAME OF WITNESS: GEORGE HESSE

Reason codes:

1. To clarify the record.

2. To conform to the facts

3. To correct the transcription errors.

Page _____ Line _____ Reason _____

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From _____ to _____

GEORGE HESSE

<p style="text-align: right;">Page 487</p> <p style="text-align: center;">UNITED STATES DISTRICT COURT EASTERN DISTRICT OF NEW YORK</p> <p>EDWARD CARTER, FRANK FIORILLO,) KEVIN LAMM, JOSEPH NOFI and) THOMAS SNYDER,)) Plaintiffs,)) vs.) CV 07 1215) INCORPORATED VILLAGE OF OCEAN) BEACH; MAYOR JOSEPH C. LOEFFLER) JR., individually and in his) Official capacity; former Mayor) NATALIE K. ROGERS, individually) and in her official capacity,) OCEAN BEACH POLICE DEPARTMENT;) ACTING DEPUTY POLICE CHIEF) GEORGE B. HESSE, individually) And in his official capacity;) SUFFOLK COUNTY; SUFFOLK COUNTY) POLICE DEPARTMENT, SUFFOLK) COUNTY DEPARTMENT OF CIVIL) SERVICE; and ALLISON SANCHEZ,) Individually and in her) Official capacity,)) Defendants.) -----)</p> <p style="text-align: center;">CONTINUED VIDEOTAPED DEPOSITION OF GEORGE HESSE Uniondale, New York Thursday, August 6, 2009</p> <p>Reported by: Philip Rizzuti JOB NO. 24143</p>	<p style="text-align: right;">Page 489</p> <p>1 2 APPEARANCES: 3 4 THOMPSON WIGDOR & GILLY, LLP 5 Attorneys for Plaintiffs 6 85 Fifth Avenue 7 New York, New York 10003 8 BY: ANDREW S. GOODSTADT, ESQ. 9 10 MARKS, O'NEILL, O'BRIEN & COURTNEY, P.C. 11 Attorneys for George B. Hesse 12 530 Saw Mill Road 13 Elmsford, New York 10523 14 BY: KEVIN W. CONNOLLY, ESQ. 15 16 RIVKIN RADLER, LLP 17 Attorneys for Incorporated Village of 18 Ocean Beach, Joseph Loeffler, Natalie 19 Rogers and Ocean Beach Police Department 20 926 RexCorp Plaza 21 Uniondale, New York 11556 22 BY: KENNETH A. NOVIKOFF, ESQ. 23 24 25</p>
<p style="text-align: right;">Page 488</p> <p>1 2 3 4 August 6, 2009 5 9:07 a.m. 6 7 Continued videotaped deposition 8 of GEORGE HESSE, held at the offices 9 of Rivkin Radler, 926 Rexcorp Plaza, 10 Uniondale, New York, pursuant to 11 subpoena, before Philip Rizzuti, a 12 Notary Public of the State of New York 13 14 15 16 17 18 19 20 21 22 23 24 25</p>	<p style="text-align: right;">Page 490</p> <p>1 2 APPEARANCES: 3 4 RUDOLPH M. BAPTISTE, ESQ. 5 Assistant County Attorney 6 Suffolk County, State of New York 7 H. Lee Dennison Building, 6th Floor 8 100 Veterans Memorial Highway - P.O. Box 6100 9 Hauppauge, New York 11788-0099 10 11 ALSO PRESENT: 12 FRANK FIORILLO 13 KEVIN LAMM 14 THOMAS SNYDER 15 JORDAN MUMMERT, Videographer 16 17 18 19 20 21 22 23 24 25</p>

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<p>1 Hesse</p> <p>2 THE VIDEOGRAPHER: This is the</p> <p>3 start of the tape labeled number 1 of the</p> <p>4 continuation of the videotape deposition</p> <p>5 of George Hesse in the matter of Carter 09:07:56</p> <p>6 and Fiorillo versus Incorporated Village</p> <p>7 of Ocean Beach. The date is August 6,</p> <p>8 2009, the time is approximately 9:09 a.m.</p> <p>9 We are on the record.</p> <p>10 G E O R G E H E S S E, called as a 09:08:12</p> <p>11 witness, having been previously duly</p> <p>12 sworn by a Notary Public, was examined</p> <p>13 and testified as follows:</p> <p>14 EXAMINATION BY</p> <p>15 MR. GOODSTADT: 09:08:14</p> <p>16 Q. Good morning, Mr. Hesse.</p> <p>17 A. Good morning.</p> <p>18 Q. Thank you for coming back. I want</p> <p>19 to remind you that you are still under oath</p> <p>20 from last time and that you are still sworn to 09:08:21</p> <p>21 tell the truth. Do you understand that?</p> <p>22 A. Yes.</p> <p>23 Q. The last time we were here you had</p> <p>24 testified briefly about drinking Rocket Fuels</p> <p>25 in the police station, do you recall that? 09:08:32</p>	<p>1 Hesse</p> <p>2 Q. Well did the Rocket Fuels come in</p> <p>3 a closed container?</p> <p>4 A. They did, yes.</p> <p>5 Q. When you say you are not so sure 09:09:23</p> <p>6 about that, what are you not sure about?</p> <p>7 A. Well, like selling</p> <p>8 over-the-counter, taking an open container</p> <p>9 outside the bar, that is illegal to drink</p> <p>10 outside of the -- in public, that is what I am 09:09:35</p> <p>11 thinking along those lines. But they could</p> <p>12 sell alcohol over-the-counter and by the case,</p> <p>13 by the bottle for off premises consumption.</p> <p>14 Q. How about a mixed drink?</p> <p>15 MR. NOVIKOFF: Objection. 09:09:51</p> <p>16 A. That is alcohol.</p> <p>17 Q. They could sell that off premises?</p> <p>18 A. I believe so.</p> <p>19 Q. What is the basis of your belief?</p> <p>20 A. I believe once I looked up their 09:09:58</p> <p>21 license a while back, I don't recall what year</p> <p>22 or when or why, but they do -- they had at</p> <p>23 that time off premise sale license.</p> <p>24 Q. When did you look up their</p> <p>25 license? 09:10:10</p>
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<p>1 Hesse</p> <p>2 A. Uh-hum.</p> <p>3 Q. You testified that there were</p> <p>4 times where people who worked in the bar, I</p> <p>5 believe you identified Brian Easop and Paul 09:08:39</p> <p>6 Conway as having delivered it to the police</p> <p>7 station; is that correct?</p> <p>8 MR. NOVIKOFF: Objection to the</p> <p>9 form.</p> <p>10 A. Yes. 09:08:48</p> <p>11 Q. They worked at CJ's?</p> <p>12 A. Yes.</p> <p>13 Q. Did CJ's have a license to serve</p> <p>14 alcohol outside their premises?</p> <p>15 A. They had a license to sell outside 09:08:57</p> <p>16 of the premise, yes, they had like an all</p> <p>17 premise sale license.</p> <p>18 Q. So they were entitled to sell</p> <p>19 alcohol or deliver alcohol to the police</p> <p>20 station without violating their license? 09:09:09</p> <p>21 MR. NOVIKOFF: Objection to the</p> <p>22 form.</p> <p>23 A. I am not so sure about that, but</p> <p>24 they were able to sell closed containers off</p> <p>25 premises. 09:09:20</p>	<p>1 Hesse</p> <p>2 MR. NOVIKOFF: Objection.</p> <p>3 Q. Do you recall what year it was?</p> <p>4 A. I don't remember.</p> <p>5 Q. Last time -- strike that. 09:10:14</p> <p>6 Just so I am clear you never wrote</p> <p>7 CJ's or Mr. Easop or Mr. Conway a ticket for</p> <p>8 delivering the alcohol, did you?</p> <p>9 MR. NOVIKOFF: Objection.</p> <p>10 MR. CONNOLLY: Objection. 09:10:32</p> <p>11 (Record read.)</p> <p>12 A. No.</p> <p>13 Q. That is correct?</p> <p>14 A. That is correct.</p> <p>15 Q. The last time when we were here we 09:10:46</p> <p>16 were discussing the Halloween incident, do you</p> <p>17 recall that?</p> <p>18 A. Yes.</p> <p>19 Q. I believe that you testified, the</p> <p>20 last thing you testified to was a statement, a 09:11:00</p> <p>21 witness statement you had taken from Doug</p> <p>22 Wyckoff, do you recall that?</p> <p>23 MR. NOVIKOFF: Objection to the</p> <p>24 form.</p> <p>25 A. Yes. 09:11:08</p>

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<p>1 Hesse</p> <p>2 Q. Do you recall testifying that that</p> <p>3 was on that next Tuesday morning?</p> <p>4 MR. NOVIKOFF: Objection to the</p> <p>5 form. His testimony is what it is. 09:11:28</p> <p>6 A. Yes, I believe it was the Tuesday</p> <p>7 after the incident.</p> <p>8 Q. What do you recall doing in</p> <p>9 connection with your investigation of the</p> <p>10 Halloween incident after taking that witness 09:11:38</p> <p>11 statement?</p> <p>12 MR. CONNOLLY: The next step?</p> <p>13 MR. GOODSTADT: Yes. I believe he</p> <p>14 walked us through his memory of the next</p> <p>15 step. So I want to know what the next 09:11:49</p> <p>16 step is.</p> <p>17 A. I don't recall exactly what I did,</p> <p>18 but I think I looked for more witnesses.</p> <p>19 Q. How did you go about doing that?</p> <p>20 A. I believe I asked Doug Wyckoff who 09:11:57</p> <p>21 may have been there that he recalls.</p> <p>22 Q. Do you recall who if anybody he</p> <p>23 told you may have been there?</p> <p>24 A. Off the top of my head, no.</p> <p>25 Q. Do you recall what you did after 09:12:10</p>	<p>1 Hesse</p> <p>2 to ask if it would be all right?</p> <p>3 A. I don't recall.</p> <p>4 Q. What was Chief Paradiso's</p> <p>5 response? 09:13:07</p> <p>6 A. I think he thought it was a good</p> <p>7 idea.</p> <p>8 Q. Do you recall what he said?</p> <p>9 A. No.</p> <p>10 Q. Was Pat Cherry scheduled to have a 09:13:13</p> <p>11 tour on the days or times that he helped with</p> <p>12 the investigation or did he come in</p> <p>13 specifically to assist with the investigation?</p> <p>14 MR. CONNOLLY: Objection.</p> <p>15 MR. NOVIKOFF: Objection. 09:13:30</p> <p>16 A. I don't recall.</p> <p>17 Q. Was he paid for his time taking</p> <p>18 part in the investigation?</p> <p>19 A. Yes.</p> <p>20 Q. Cherry was not on duty Halloween 09:13:35</p> <p>21 night; is that correct?</p> <p>22 A. Correct.</p> <p>23 Q. Did the board have to approve</p> <p>24 Cherry's involvement in the investigation?</p> <p>25 MR. CONNOLLY: Objection to the 09:13:48</p>
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<p>1 Hesse</p> <p>2 asking him that question who may have been</p> <p>3 there?</p> <p>4 A. I don't recall.</p> <p>5 Q. Did there come a point in time 09:12:16</p> <p>6 where you asked Pat Cherry to assist in the</p> <p>7 investigation?</p> <p>8 A. Yes.</p> <p>9 Q. When was that?</p> <p>10 A. I don't know exactly. 09:12:30</p> <p>11 Q. Was it before or after the Tuesday</p> <p>12 morning in which you spoke with Mr. Wyckoff?</p> <p>13 A. I don't recall.</p> <p>14 Q. How did you go about asking him;</p> <p>15 ask you see him, call him, E-mail him, some 09:12:43</p> <p>16 other form?</p> <p>17 A. I believe I called him.</p> <p>18 Q. Why did you call him?</p> <p>19 A. Because I thought he was a good</p> <p>20 candidate to help me out. 09:12:51</p> <p>21 Q. You made the decision to appoint</p> <p>22 him to the investigation?</p> <p>23 A. I believe I called Chief Paradiso</p> <p>24 and asked him if it would be all right.</p> <p>25 Q. When did you call Chief Paradiso 09:12:59</p>	<p>1 Hesse</p> <p>2 form.</p> <p>3 A. No.</p> <p>4 Q. Did the board approve his</p> <p>5 assistance in the investigation? 09:13:53</p> <p>6 MR. CONNOLLY: Objection to the</p> <p>7 form.</p> <p>8 A. I don't know.</p> <p>9 Q. Did you speak to anybody on the</p> <p>10 board prior to asking Mr. Cherry to 09:14:01</p> <p>11 investigate?</p> <p>12 A. No.</p> <p>13 MR. NOVIKOFF: Objection to the</p> <p>14 form.</p> <p>15 Q. At that point in time Mr. Cherry 09:14:08</p> <p>16 had not passed all the civil service tests; is</p> <p>17 that correct?</p> <p>18 A. Correct.</p> <p>19 Q. Did you alert anybody at civil</p> <p>20 service with respect to Cherry's -- strike 09:14:31</p> <p>21 that.</p> <p>22 Did you alert anybody at civil</p> <p>23 service about your decision to ask Mr. Cherry</p> <p>24 to assist in the investigation?</p> <p>25 MR. NOVIKOFF: Objection to the 09:14:42</p>

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<p>1 Hesse</p> <p>2 form.</p> <p>3 MR. BAPTISTE: Objection.</p> <p>4 A. No.</p> <p>5 Q. By that point in time, that 09:14:47</p> <p>6 Tuesday morning, had you spoken with anybody</p> <p>7 on the board of trustees of Ocean Beach about</p> <p>8 the Halloween incident?</p> <p>9 A. Not that I recall.</p> <p>10 Q. Did you speak with the mayor prior 09:14:56</p> <p>11 to that Tuesday morning about the Halloween</p> <p>12 incident?</p> <p>13 MR. NOVIKOFF: Objection to the</p> <p>14 form.</p> <p>15 A. No. Not that I recall. 09:15:04</p> <p>16 Q. Who was the mayor at the time?</p> <p>17 A. Natalie Rogers.</p> <p>18 Q. Did you draft a plan for an</p> <p>19 investigation prior to commencing your</p> <p>20 investigation? 09:15:16</p> <p>21 A. No.</p> <p>22 Q. Did you take any notes in</p> <p>23 preparation for your investigation?</p> <p>24 A. No. Not that I recall.</p> <p>25 Q. Do you recall what day -- strike 09:15:26</p>	<p>1 Hesse</p> <p>2 Jaeger, the fax, and some notes that were</p> <p>3 faxed to me by his wife.</p> <p>4 Q. Any other documentation that you</p> <p>5 provided to Mr. Cherry prior to him commencing 09:16:41</p> <p>6 his role in the investigation?</p> <p>7 A. Not that I recall.</p> <p>8 Q. What did you explain to Mr. Cherry</p> <p>9 about the assignment?</p> <p>10 A. I don't recall exactly how I 09:16:53</p> <p>11 explained it to him.</p> <p>12 Q. Do you recall anything that you</p> <p>13 explained to him?</p> <p>14 A. No.</p> <p>15 Q. Were you ever told that one of the 09:17:02</p> <p>16 people who were involved in the altercation</p> <p>17 with Mr. Bosetti had claimed that he was</p> <p>18 afraid there was going to be a cover up, had</p> <p>19 you ever heard that?</p> <p>20 MR. NOVIKOFF: Objection. 09:17:32</p> <p>21 MR. CONNOLLY: At any time?</p> <p>22 Q. At any time?</p> <p>23 A. I don't specifically recall, no.</p> <p>24 Q. And did Cherry take any -- did Pat</p> <p>25 Cherry take any witness statements as part of 09:17:47</p>
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<p>1 Hesse</p> <p>2 that.</p> <p>3 Did Pat Cherry ever come to the</p> <p>4 island in connection with his assistance in</p> <p>5 the investigation? 09:15:38</p> <p>6 A. Yes.</p> <p>7 Q. Do you recall what day or days he</p> <p>8 came to the island to assist in the</p> <p>9 investigation?</p> <p>10 A. I don't recall, no. 09:15:44</p> <p>11 Q. Did you provide any documents to</p> <p>12 Mr. Cherry before he commenced his role in the</p> <p>13 investigation?</p> <p>14 A. I believe he reviewed all the</p> <p>15 documents that we already had. 09:15:55</p> <p>16 Q. What documents were those?</p> <p>17 A. I believe it was, there were at</p> <p>18 least three statements that were taken by the</p> <p>19 officers that were on duty that night. There</p> <p>20 was a field report that was drafted that night 09:16:09</p> <p>21 by Officer Snyder. And I don't know if I had</p> <p>22 any documents that I had drafted up. Any</p> <p>23 statements that I took he may have read one or</p> <p>24 two that maybe that I took at that time. And</p> <p>25 I believe there was the letter from Budd 09:16:25</p>	<p>1 Hesse</p> <p>2 his role in the investigation?</p> <p>3 A. Yes.</p> <p>4 Q. How many witness statements did he</p> <p>5 take? 09:17:55</p> <p>6 A. Possibly three.</p> <p>7 Q. Do you know whose witness</p> <p>8 statements Mr. Cherry took?</p> <p>9 A. He did Jeannie Jaeger, the victim.</p> <p>10 He did Sean O'Rourke, and I believe he 09:18:11</p> <p>11 interviewed Elyse Miller over the phone.</p> <p>12 Q. Where did the interview with</p> <p>13 Jeannie Jaeger take place?</p> <p>14 A. At her house in Smithtown.</p> <p>15 Q. Do you know when that interview 09:18:35</p> <p>16 took place?</p> <p>17 A. The statement is dated, so it</p> <p>18 would be on the date that is on the statement</p> <p>19 itself. I don't recall the actual date.</p> <p>20 Q. Did you attend the interview? 09:18:49</p> <p>21 A. Yes, I did.</p> <p>22 Q. Did you ask any questions during</p> <p>23 the interview?</p> <p>24 A. I don't recall if I did.</p> <p>25 Q. Did Mr. Cherry ask any questions 09:18:59</p>

<p style="text-align: right;">Page 503</p> <p>1 Hesse</p> <p>2 during the interview?</p> <p>3 A. Specifically I don't really think</p> <p>4 so.</p> <p>5 Q. Do you recall anything that you 09:19:11</p> <p>6 said during that interview?</p> <p>7 A. No, I don't recall.</p> <p>8 Q. Do you recall anything that</p> <p>9 Mr. Cherry said during that interview?</p> <p>10 A. Yes. In his own words I think he 09:19:18</p> <p>11 asked her to say in her own words what</p> <p>12 happened.</p> <p>13 Q. Did he say anything else during</p> <p>14 that interview?</p> <p>15 A. Not that I recall specifically, 09:19:27</p> <p>16 no.</p> <p>17 Q. So you don't recall if he had</p> <p>18 asked her any questions?</p> <p>19 A. Not specifically, no.</p> <p>20 Q. What was Ed Paradiso's role in the 09:19:39</p> <p>21 investigation?</p> <p>22 A. I don't think he had a role.</p> <p>23 Q. He was not involved at all?</p> <p>24 A. I think in the early, early stages</p> <p>25 his involvement dealt with -- you know, to 09:19:55</p>	<p style="text-align: right;">Page 505</p> <p>1 Hesse</p> <p>2 started hitting people with a pool stick, and</p> <p>3 that he had fired him, and that when I come in</p> <p>4 Monday morning just figure out what happened.</p> <p>5 Q. Did he tell you where he learned 09:21:25</p> <p>6 those facts from?</p> <p>7 MR. NOVIKOFF: Objection to the</p> <p>8 form.</p> <p>9 A. I don't remember specifically if</p> <p>10 he did. 09:21:34</p> <p>11 Q. He told you that he fired Gary</p> <p>12 Bosetti?</p> <p>13 A. He told me he fired Gary Bosetti.</p> <p>14 Q. Did he tell you why he fired Gary</p> <p>15 Bosetti? 09:21:45</p> <p>16 A. I don't recall specifically why.</p> <p>17 Q. Did you have any role in the</p> <p>18 decision to fire Gary Bosetti?</p> <p>19 A. No.</p> <p>20 Q. Did you know about it prior to it 09:21:50</p> <p>21 happening?</p> <p>22 A. No.</p> <p>23 Q. When Mr. Cherry came in as part of</p> <p>24 the investigation did you tell him that Gary</p> <p>25 Bosetti had been fired? 09:22:05</p>
<p style="text-align: right;">Page 504</p> <p>1 Hesse</p> <p>2 tell you the truth I don't know. I mean he --</p> <p>3 I know he spoke to Elyse Miller, he attempted</p> <p>4 to talk to Gary Bosetti and Rich Bosetti.</p> <p>5 Other than that he called me Sunday evening 09:20:13</p> <p>6 and said investigate this.</p> <p>7 Q. What exactly did he say when he --</p> <p>8 what exactly did he say when he called you</p> <p>9 Sunday evening and told you that he wanted you</p> <p>10 to investigate it? 09:20:29</p> <p>11 A. He basically, you know, he told me</p> <p>12 what he was told I guess what had happened</p> <p>13 that night and said that when I come in Monday</p> <p>14 morning he is going to put some documents for</p> <p>15 me to read and try to figure out what 09:20:44</p> <p>16 happened.</p> <p>17 Q. What did he tell you about what</p> <p>18 had happened that night?</p> <p>19 MR. CONNOLLY: Read back the</p> <p>20 question. 09:21:02</p> <p>21 (Record read.)</p> <p>22 MR. CONNOLLY: Objection. But you</p> <p>23 can answer.</p> <p>24 A. He said something about Gary</p> <p>25 Bosetti possibly went crazy in a bar and 09:21:09</p>	<p style="text-align: right;">Page 506</p> <p>1 Hesse</p> <p>2 A. I don't recall specifically if I</p> <p>3 told him when he came in.</p> <p>4 Q. How long did the investigation</p> <p>5 take? 09:22:15</p> <p>6 MR. NOVIKOFF: Before they -- take</p> <p>7 before what?</p> <p>8 MR. CONNOLLY: Objection.</p> <p>9 Q. How long did your investigation</p> <p>10 take? 09:22:25</p> <p>11 MR. NOVIKOFF: Objection.</p> <p>12 A. Well, to get to the bottom of</p> <p>13 things maybe five days, but from start to</p> <p>14 finish to prosecution, it took a couple of</p> <p>15 months. 09:22:42</p> <p>16 Q. What do you mean by to get to the</p> <p>17 bottom of things?</p> <p>18 A. To kind of figure out what really</p> <p>19 happened.</p> <p>20 Q. So you were able to reach a 09:22:49</p> <p>21 conclusion as to what really happened within</p> <p>22 five days?</p> <p>23 A. I believe it was about five days,</p> <p>24 yes.</p> <p>25 MR. CONNOLLY: Objection. 09:22:56</p>

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<p>1 Hesse</p> <p>2 Q. During those five days did you</p> <p>3 speak with Kevin Lamm at all about his</p> <p>4 involvement in the incident, or his</p> <p>5 involvement in investigating that incident? 09:23:12</p> <p>6 MR. NOVIKOFF: Objection to the</p> <p>7 form. Foundation.</p> <p>8 A. Yes.</p> <p>9 Q. When did you speak with Lamm?</p> <p>10 A. Like I stated a few weeks ago, 09:23:20</p> <p>11 when I got the phone call from Ed Paradiso</p> <p>12 that he had fired Gary and that this incident</p> <p>13 had happened, I called Kevin Lamm on his cell</p> <p>14 phone and asked him what happened.</p> <p>15 Q. Did you speak to him at any time 09:23:38</p> <p>16 after that call that you testified to already?</p> <p>17 A. Yes. I believe I spoke to him one</p> <p>18 other time.</p> <p>19 Q. When was that?</p> <p>20 A. I don't know the exact date. 09:23:47</p> <p>21 Q. Was it in person or on the phone?</p> <p>22 A. On the phone I believe.</p> <p>23 Q. Tell me everything that you recall</p> <p>24 that was discussed between you and Mr. Lamm</p> <p>25 during that telephone conference? 09:23:57</p>	<p>1 Hesse</p> <p>2 he said and I asked him to just put a</p> <p>3 statement together, a 42, just to tell me what</p> <p>4 happened.</p> <p>5 Q. Do you recall anything that was 09:25:05</p> <p>6 discussed, any of the details of what was</p> <p>7 discussed?</p> <p>8 A. No, I don't recall the details</p> <p>9 exactly, no.</p> <p>10 Q. Did you speak with Mr. Fiorillo at 09:25:13</p> <p>11 any other time during the five day period in</p> <p>12 which it took you to investigate and reach a</p> <p>13 conclusion?</p> <p>14 MR. CONNOLLY: Objection.</p> <p>15 A. I believe one other time, yes. 09:25:26</p> <p>16 Q. When was that?</p> <p>17 A. I think I saw him in person at</p> <p>18 the -- at the lighthouse parking lot where we</p> <p>19 make our relief. I believe he handed me a</p> <p>20 handwritten 42. 09:25:37</p> <p>21 Q. Do you recall anything that was</p> <p>22 stated by either you or Mr. Fiorillo during</p> <p>23 that -- during that incident in which you met</p> <p>24 with him at the lighthouse?</p> <p>25 A. I don't recall specifically 09:25:56</p>
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<p>1 Hesse</p> <p>2 A. I don't specifically remember the</p> <p>3 contents of the phone call, but I asked him to</p> <p>4 put a 42 together, a statement regarding what</p> <p>5 he believes took place. 09:24:07</p> <p>6 Q. Do you recall anything else that</p> <p>7 was discussed during that call?</p> <p>8 A. Not specifically, no.</p> <p>9 Q. Do you know whether Cherry ever</p> <p>10 spoke with Lamm as part of his role in the 09:24:17</p> <p>11 investigation?</p> <p>12 A. I don't know.</p> <p>13 Q. How many times did you speak with</p> <p>14 Mr. Fiorillo in connection with the</p> <p>15 investigation? 09:24:29</p> <p>16 A. Over the course of a couple of</p> <p>17 years?</p> <p>18 Q. No, within the five day period</p> <p>19 until you reached the conclusion?</p> <p>20 A. Like I stated with Kevin Lamm, I 09:24:39</p> <p>21 also called Frank that Sunday, that Sunday</p> <p>22 evening, early evening. I asked him basically</p> <p>23 the same thing that I asked Kevin, what had</p> <p>24 happened, what he thought what had happened.</p> <p>25 I don't specifically recall what 09:24:56</p>	<p>1 Hesse</p> <p>2 anything.</p> <p>3 Q. How about generally, do you recall</p> <p>4 anything generally that was discussed?</p> <p>5 A. No, not really. 09:26:01</p> <p>6 Q. How about Mr. Snyder, how many</p> <p>7 times did you speak with him during the five</p> <p>8 day period in which you investigated and</p> <p>9 reached a conclusion?</p> <p>10 MR. CONNOLLY: Objection. 09:26:12</p> <p>11 A. You know what, I don't think I</p> <p>12 spoke to him at all that I can recall.</p> <p>13 Q. Did you try to speak to him?</p> <p>14 A. I believe I did, but I am not</p> <p>15 sure, I can't speculate. 09:26:23</p> <p>16 Q. So you don't recall any efforts</p> <p>17 that you made to speak to Mr. Snyder?</p> <p>18 A. I don't recall.</p> <p>19 Q. Do you know whether Mr. Cherry</p> <p>20 spoke with Mr. Fiorillo at all? 09:26:31</p> <p>21 A. I don't know.</p> <p>22 Q. Do you know whether Mr. Cherry</p> <p>23 spoke with Mr. Snyder at all?</p> <p>24 A. I don't know.</p> <p>25 Q. Do you think it would have been 09:26:37</p>

<p style="text-align: right;">Page 511</p> <p>1 Hesse</p> <p>2 important for him to speak with either Mr.</p> <p>3 Fiorillo, Mr. Lamm or Mr. Snyder in connection</p> <p>4 with his role in the investigation?</p> <p>5 MR. CONNOLLY: Objection. 09:26:50</p> <p>6 MR. NOVIKOFF: Objection.</p> <p>7 A. No.</p> <p>8 Q. Why not?</p> <p>9 A. We already had statements that</p> <p>10 were taken by these individuals and I asked 09:26:54</p> <p>11 them already to write me up a 42 what they</p> <p>12 thought happened, so there was no need to</p> <p>13 speak to them further.</p> <p>14 Q. Did you speak to anybody from</p> <p>15 Ocean Beach Rescue who was on duty that night 09:27:07</p> <p>16 of the Halloween incident during your five day</p> <p>17 period of investigating?</p> <p>18 MR. CONNOLLY: Objection.</p> <p>19 A. I don't recall.</p> <p>20 Q. Did you speak with Joe Loeffler 09:27:15</p> <p>21 during that period; when I say Joe Loeffler I</p> <p>22 mean Joe Loeffler Jr.?</p> <p>23 A. I don't recall specifically</p> <p>24 speaking to him.</p> <p>25 Q. Did you speak with any of the 09:27:28</p>	<p style="text-align: right;">Page 513</p> <p>1 Hesse</p> <p>2 MR. CONNOLLY: Objection.</p> <p>3 A. They were already spoken to.</p> <p>4 Q. You didn't think it was necessary</p> <p>5 or important to speak with them yourself? 09:28:20</p> <p>6 MR. NOVIKOFF: Objection.</p> <p>7 MR. CONNOLLY: Objection.</p> <p>8 A. No.</p> <p>9 Q. Do you believe that the on duty</p> <p>10 officers did a sufficient job in taking their 09:28:28</p> <p>11 statements?</p> <p>12 MR. NOVIKOFF: Objection to the</p> <p>13 form.</p> <p>14 A. No.</p> <p>15 Q. Why not? 09:28:34</p> <p>16 A. They were somewhat incoherent.</p> <p>17 They were purely written.</p> <p>18 Q. Did they provide any other</p> <p>19 statements other than the ones that they gave</p> <p>20 to the three on duty officers? 09:28:59</p> <p>21 A. I believe they made some verbal</p> <p>22 comments the next day to Paradiso.</p> <p>23 Q. How did you learn of those verbal</p> <p>24 comments?</p> <p>25 A. I believe when I was called that 09:29:11</p>
<p style="text-align: right;">Page 512</p> <p>1 Hesse</p> <p>2 three people who provided a witness statement</p> <p>3 to the on duty officers that night?</p> <p>4 A. At any time?</p> <p>5 Q. During the five day period in 09:27:39</p> <p>6 which you reached a conclusion as to what</p> <p>7 happened?</p> <p>8 MR. CONNOLLY: Objection.</p> <p>9 A. No.</p> <p>10 Q. Did you try to speak with any of 09:27:44</p> <p>11 the three of them?</p> <p>12 A. No.</p> <p>13 Q. Why not?</p> <p>14 A. I had their statements.</p> <p>15 Q. You didn't have any follow up 09:27:53</p> <p>16 questions from those statements?</p> <p>17 A. No.</p> <p>18 Q. So their statements were complete</p> <p>19 in your mind?</p> <p>20 A. Yes. 09:28:01</p> <p>21 Q. Just so I am clear you didn't deem</p> <p>22 it necessary to speak with the other side, the</p> <p>23 other individuals that were involved in the</p> <p>24 fight?</p> <p>25 MR. NOVIKOFF: Objection. 09:28:14</p>	<p style="text-align: right;">Page 514</p> <p>1 Hesse</p> <p>2 night by Ed Paradiso, now thinking about it,</p> <p>3 he did tell me that they came back early that</p> <p>4 Sunday morning to file a complaint I guess</p> <p>5 against Officer Bosetti. 09:29:24</p> <p>6 Q. Do you know whether they actually</p> <p>7 filed a complaint against Officer Bosetti?</p> <p>8 A. I think it was all done verbally.</p> <p>9 Q. What was the basis of that belief?</p> <p>10 A. I was told that by Ed Paradiso. 09:29:37</p> <p>11 Q. Do you recall what Ed Paradiso</p> <p>12 told you that they stated to him that Sunday</p> <p>13 morning?</p> <p>14 A. I believe he told them that he had</p> <p>15 already fired Officer Bosetti and an 09:29:47</p> <p>16 investigation would be conducted.</p> <p>17 Q. Did he tell you anything that they</p> <p>18 stated happened at the Halloween incident?</p> <p>19 A. I don't recall.</p> <p>20 Q. So I believe that you testified 09:29:59</p> <p>21 that you thought that their statements were</p> <p>22 complete, is that correct, is what you</p> <p>23 testified to?</p> <p>24 MR. CONNOLLY: Objection.</p> <p>25 A. Yes. 09:30:08</p>

<p style="text-align: right;">Page 515</p> <p>1 Hesse</p> <p>2 Q. You testified that the statements</p> <p>3 that you read were incoherent and purely</p> <p>4 written; correct?</p> <p>5 A. Yes. 09:30:15</p> <p>6 Q. So how do you reconcile those two?</p> <p>7 A. I don't understand the question.</p> <p>8 Q. What was incoherent about the</p> <p>9 statements?</p> <p>10 A. They just were just belligerent 09:30:21</p> <p>11 lies from an intox person?</p> <p>12 Q. And did you know that as soon as</p> <p>13 you read those statements that they were</p> <p>14 belligerent lies from an intox person?</p> <p>15 A. You could tell just by reading 09:30:38</p> <p>16 them.</p> <p>17 Q. So you didn't think it was</p> <p>18 important for you to further question them</p> <p>19 after you believed what they had given as a</p> <p>20 statement were lies? 09:30:47</p> <p>21 A. No.</p> <p>22 Q. Why not?</p> <p>23 A. Because a victim came forward,</p> <p>24 told me what really had happened. And the</p> <p>25 fact that the statements reflected the fact 09:30:59</p>	<p style="text-align: right;">Page 517</p> <p>1 Hesse</p> <p>2 Q. Did you run a background check on</p> <p>3 any of the three of them?</p> <p>4 A. I may have, I don't recall</p> <p>5 specifically. 09:32:07</p> <p>6 Q. Did you run a background check on</p> <p>7 anybody other than for the three of them in</p> <p>8 connection with the investigation of the</p> <p>9 Halloween incident?</p> <p>10 MR. CONNOLLY: Objection. 09:32:15</p> <p>11 A. I don't specifically recall.</p> <p>12 Q. Why would you run a background</p> <p>13 check on the three of them?</p> <p>14 A. Because they were suspects.</p> <p>15 Q. When did they become suspects? 09:32:23</p> <p>16 A. Probably after I had spoken to</p> <p>17 Budd Jaeger and Jeannie Jaeger.</p> <p>18 Q. So they became suspects based on</p> <p>19 the statements of Budd Jaeger and Jeannie</p> <p>20 Jaeger? 09:32:43</p> <p>21 A. Yes.</p> <p>22 Q. Was Gary Bosetti considered a</p> <p>23 suspect in your mind?</p> <p>24 MR. NOVIKOFF: Objection as to</p> <p>25 timeframe. 09:32:51</p>
<p style="text-align: right;">Page 516</p> <p>1 Hesse</p> <p>2 that Gary Bosetti identified himself as a</p> <p>3 police officer led me to believe that there</p> <p>4 was no further questions I needed to ask these</p> <p>5 individuals because they already knew what 09:31:12</p> <p>6 they had done.</p> <p>7 Q. What does the fact that Gary</p> <p>8 Bosetti identified himself as a police officer</p> <p>9 lead you to that conclusion?</p> <p>10 A. One of the statements stated that 09:31:21</p> <p>11 Gary Bosetti who identified himself as a</p> <p>12 police officer at least ten times, I think</p> <p>13 that is what the statement says.</p> <p>14 Q. What did that lead you to believe</p> <p>15 that -- why did that lead you to believe that 09:31:34</p> <p>16 you didn't need to speak with them any</p> <p>17 further?</p> <p>18 A. Because flat out they admitted</p> <p>19 what they had done.</p> <p>20 Q. So it is your conclusion that 09:31:46</p> <p>21 their witness statements is an admission as to</p> <p>22 what they had done; is that your testimony?</p> <p>23 MR. CONNOLLY: Objection.</p> <p>24 MR. NOVIKOFF: Objection.</p> <p>25 A. Yeah. 09:31:55</p>	<p style="text-align: right;">Page 518</p> <p>1 Hesse</p> <p>2 Q. While you were investigating?</p> <p>3 MR. CONNOLLY: Same objection.</p> <p>4 MR. NOVIKOFF: Objection.</p> <p>5 A. In the early stages I was not 09:32:56</p> <p>6 sure. It was possible, yes.</p> <p>7 Q. Did you attempt to speak with him</p> <p>8 during the five days that you were</p> <p>9 investigating?</p> <p>10 A. Speak with who? 09:33:06</p> <p>11 Q. Start with Gary Bosetti, did you</p> <p>12 attempt to speak with Gary Bosetti during the</p> <p>13 five days of your investigation?</p> <p>14 A. No.</p> <p>15 MR. CONNOLLY: Objection. 09:33:15</p> <p>16 Q. Did you attempt to speak with Rich</p> <p>17 Bosetti during the five days of your</p> <p>18 investigation?</p> <p>19 A. No.</p> <p>20 MR. CONNOLLY: Objection. 09:33:23</p> <p>21 Q. Did you speak with either of them</p> <p>22 during those five days?</p> <p>23 MR. CONNOLLY: Objection.</p> <p>24 A. No.</p> <p>25 Q. Why didn't you attempt to speak 09:33:29</p>

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<p>1 Hesse</p> <p>2 with them?</p> <p>3 A. Because they too in the early</p> <p>4 stages were suspect to possibly some</p> <p>5 wrongdoing. 09:33:38</p> <p>6 Q. Was it your policy not to speak to</p> <p>7 anybody who was suspect of doing wrongdoing?</p> <p>8 A. Well I wanted to find some</p> <p>9 independent witnesses to find out what had</p> <p>10 happened. 09:33:52</p> <p>11 Q. You didn't answer the question.</p> <p>12 The question was whether it was a policy at</p> <p>13 any time not to speak to anybody who was a</p> <p>14 suspect of doing wrongdoing?</p> <p>15 MR. CONNOLLY: Objection. 09:34:01</p> <p>16 MR. NOVIKOFF: Objection.</p> <p>17 A. I found it not necessary to speak</p> <p>18 to anybody at that time.</p> <p>19 Q. Do you know what the three people</p> <p>20 who gave witness statements that night were 09:34:10</p> <p>21 drinking?</p> <p>22 MR. CONNOLLY: You are talking</p> <p>23 about the three --</p> <p>24 Q. Schalik, Van Koot and Tesori. The</p> <p>25 question was do you know what they were 09:34:29</p>	<p>1 Hesse</p> <p>2 A. Poor judgment maybe. I don't</p> <p>3 know.</p> <p>4 Q. Was Jeannie Jaeger drinking that</p> <p>5 night? 09:35:21</p> <p>6 A. I don't recall.</p> <p>7 Q. Do you know whether Cherry asked</p> <p>8 her that as part of her interview?</p> <p>9 A. I don't recall.</p> <p>10 Q. Did you ask her that when you 09:35:28</p> <p>11 spoke with her?</p> <p>12 A. I don't believe I did.</p> <p>13 Q. Do you think that that was a</p> <p>14 question that should have been asked as part</p> <p>15 of the investigation? 09:35:40</p> <p>16 MR. NOVIKOFF: Objection.</p> <p>17 A. Not specifically, no.</p> <p>18 Q. Do you think that if she was drunk</p> <p>19 it could have affected her judgment?</p> <p>20 A. Being a victim, no. 09:35:49</p> <p>21 Q. Could it have affected her ability</p> <p>22 to recall facts?</p> <p>23 MR. NOVIKOFF: Objection.</p> <p>24 A. I don't know.</p> <p>25 Q. You don't think if she is 09:36:00</p>
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<p>1 Hesse</p> <p>2 drinking?</p> <p>3 MR. CONNOLLY: Got it?</p> <p>4 A. I don't specifically recall, no.</p> <p>5 Q. Do you know how many drinks they 09:34:35</p> <p>6 had?</p> <p>7 A. No.</p> <p>8 Q. What was the basis of your belief</p> <p>9 that they were intoxicated?</p> <p>10 A. I was told by the three officers 09:34:43</p> <p>11 that were there.</p> <p>12 Q. Which are the three officers told</p> <p>13 you?</p> <p>14 A. Fiorillo, Snyder and Lamm.</p> <p>15 Q. The fact that they were 09:34:51</p> <p>16 intoxicated, did that have any role in your</p> <p>17 assessment of their credibility?</p> <p>18 A. No.</p> <p>19 Q. Why did you testify before -- you</p> <p>20 testified before that they were belligerent 09:35:06</p> <p>21 lies by intox; is that correct?</p> <p>22 A. Uh-hum.</p> <p>23 Q. What does the fact that they were</p> <p>24 intoxicated have to do with anything about the</p> <p>25 belligerent lies, if anything? 09:35:16</p>	<p>1 Hesse</p> <p>2 intoxicated it may have affected her ability</p> <p>3 to recall facts?</p> <p>4 MR. NOVIKOFF: Objection.</p> <p>5 A. It is speculating. It is 09:36:10</p> <p>6 possible.</p> <p>7 Q. Well as a police officer for a</p> <p>8 long time, in your experience as a police</p> <p>9 officer do you believe that intoxicated</p> <p>10 people -- strike that. 09:36:26</p> <p>11 Do you believe that intoxication</p> <p>12 can affect a witness' ability to recall facts?</p> <p>13 MR. CONNOLLY: Objection.</p> <p>14 MR. NOVIKOFF: Objection.</p> <p>15 A. I believe so, yes. 09:36:34</p> <p>16 Q. But yet you still didn't ask her</p> <p>17 if she was drinking?</p> <p>18 MR. CONNOLLY: Objection.</p> <p>19 A. I don't specifically recall.</p> <p>20 MR. NOVIKOFF: Before you ask the 09:36:46</p> <p>21 next question, just to make clear on the</p> <p>22 record, an objection by one party is an</p> <p>23 objection for all?</p> <p>24 MR. GOODSTADT: Yes.</p> <p>25 MR. NOVIKOFF: Right. 09:36:59</p>

<p style="text-align: right;">Page 523</p> <p>1 Hesse</p> <p>2 Q. Are you aware of the injuries to</p> <p>3 Brian Van Koot from that night?</p> <p>4 A. Partially, yes.</p> <p>5 Q. What do you mean by partially? 09:37:05</p> <p>6 A. I partially recall.</p> <p>7 Q. You partially recall now or you</p> <p>8 were partially aware at the time; I am not</p> <p>9 sure what you mean by partially?</p> <p>10 MR. CONNOLLY: Objection. Re-ask 09:37:19</p> <p>11 the question.</p> <p>12 Q. At the time during those five days</p> <p>13 were you aware of the injuries to Brian Van</p> <p>14 Koot?</p> <p>15 MR. CONNOLLY: Objection. If you 09:37:32</p> <p>16 understand the question.</p> <p>17 A. I know why he went to the</p> <p>18 hospital, but I don't believe there were any</p> <p>19 injuries sustained from what I recall.</p> <p>20 Q. Did you see any pictures of Brian 09:37:41</p> <p>21 Van Koot from that night?</p> <p>22 MR. CONNOLLY: At any juncture?</p> <p>23 Q. At any juncture?</p> <p>24 A. Yes.</p> <p>25 Q. When did you see those? 09:37:52</p>	<p style="text-align: right;">Page 525</p> <p>1 Hesse</p> <p>2 trachea, or disaligned trachea as a result of</p> <p>3 the Halloween incident?</p> <p>4 MR. NOVIKOFF: Objection to the</p> <p>5 form. 09:39:44</p> <p>6 A. Yes, I did hear that he had a</p> <p>7 either deviated trachea or something, what the</p> <p>8 EMT suspected, yes.</p> <p>9 Q. What do you mean by what the EMT</p> <p>10 suspected? 09:40:00</p> <p>11 A. If he had a deviated trachea I</p> <p>12 doubt he would have been out of the hospital</p> <p>13 within a couple of hours. It was a</p> <p>14 precautionary measure.</p> <p>15 Q. So do you know whether he actually 09:40:10</p> <p>16 suffered that injury?</p> <p>17 A. I don't believe he did.</p> <p>18 Q. That was on the basis of your</p> <p>19 understanding that he was out of the hospital</p> <p>20 and came to the police station the next 09:40:19</p> <p>21 morning?</p> <p>22 MR. NOVIKOFF: Objection to the</p> <p>23 form.</p> <p>24 A. Yes.</p> <p>25 Q. Did you ever check to see whether 09:40:22</p>
<p style="text-align: right;">Page 524</p> <p>1 Hesse</p> <p>2 A. I may have saw them the day I came</p> <p>3 in. I don't specifically recall.</p> <p>4 Q. You testified that you don't</p> <p>5 believe there were any injuries sustained by 09:38:10</p> <p>6 Mr. Van Koot. What did you mean by that?</p> <p>7 A. He came in the next morning and I</p> <p>8 believe he was okay.</p> <p>9 MR. GOODSTADT: Would you mark</p> <p>10 this as Hesse Exhibit 17, photocopy of 09:38:28</p> <p>11 photographs.</p> <p>12 (Hesse Exhibit 17, photocopy of</p> <p>13 photographs, marked for</p> <p>14 identification, as of this date.)</p> <p>15 Q. I placed in front of Mr. Hesse 09:38:41</p> <p>16 what has now been marked as Hesse 17,</p> <p>17 three-page exhibit bearing Bates numbers 3187</p> <p>18 through 3188, 3189.</p> <p>19 Mr. Hesse, are these the pictures</p> <p>20 that you saw the next morning? 09:39:14</p> <p>21 MR. CONNOLLY: Objection.</p> <p>22 A. Yes, I have seen these pictures,</p> <p>23 yes.</p> <p>24 Q. Did you hear that at that time</p> <p>25 that Mr. Van Koot had suffered an unaligned 09:39:27</p>	<p style="text-align: right;">Page 526</p> <p>1 Hesse</p> <p>2 he had actually suffered those injuries?</p> <p>3 MR. NOVIKOFF: Objection.</p> <p>4 Foundation.</p> <p>5 A. I don't recall. 09:40:30</p> <p>6 Q. Did you ever speak -- strike that.</p> <p>7 How did you know that the EMT</p> <p>8 suspected that?</p> <p>9 A. I think I read it on the PCR.</p> <p>10 Q. Did you ever speak with anyone who 09:40:44</p> <p>11 was on EMT that night about those injuries?</p> <p>12 A. I don't recall if I did.</p> <p>13 Q. When was the first time that you</p> <p>14 spoke with Joe Loeffler Jr. about the</p> <p>15 Halloween incident? 09:40:57</p> <p>16 A. I don't recall when.</p> <p>17 Q. Do you recall how long after those</p> <p>18 five days it was?</p> <p>19 A. I don't.</p> <p>20 Q. Joe Loeffler was part of the EMT 09:41:04</p> <p>21 that night; is that correct?</p> <p>22 A. I believe he was, yes.</p> <p>23 Q. Did you ever hear the fact that he</p> <p>24 stated that it was an assault second with a</p> <p>25 dangerous instrument at the police station 09:41:15</p>

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<p>1 Hesse</p> <p>2 that night?</p> <p>3 MR. CONNOLLY: Objection.</p> <p>4 MR. NOVIKOFF: Objection.</p> <p>5 A. I heard a rumor about that, yes. 09:41:19</p> <p>6 Q. Who did you hear the rumor from?</p> <p>7 A. I don't recall.</p> <p>8 Q. Did you ever speak with</p> <p>9 Mr. Loeffler about that statement?</p> <p>10 A. I don't recall. 09:41:26</p> <p>11 Q. Did you ever speak with any of the</p> <p>12 on duty officers that night about that</p> <p>13 statement?</p> <p>14 MR. NOVIKOFF: Objection.</p> <p>15 Q. The three on duty officers that 09:41:36</p> <p>16 were on duty that night --</p> <p>17 MR. CONNOLLY: The three officers</p> <p>18 that went to the scene?</p> <p>19 MR. NOVIKOFF: Objection to the</p> <p>20 form. 09:41:45</p> <p>21 Q. Yes.</p> <p>22 A. I don't recall if I did</p> <p>23 specifically.</p> <p>24 Q. Do you recall specifically</p> <p>25 speaking to anybody about that statement being 09:41:51</p>	<p>1 Hesse</p> <p>2 A. You know I don't recall if they</p> <p>3 were or not. I do remember seeing them. I</p> <p>4 don't remember when I first saw them though.</p> <p>5 Q. Were there any handwritten notes 09:43:01</p> <p>6 or notes or documents prepared by Ed Paradiso</p> <p>7 in that packet that you received?</p> <p>8 A. I don't recall if there was.</p> <p>9 MR. GOODSTADT: Would you mark</p> <p>10 this document as Hesse Exhibit 18, 09:43:17</p> <p>11 incident report.</p> <p>12 (Hesse Exhibit 18, incident</p> <p>13 report, marked for identification, as</p> <p>14 of this date.)</p> <p>15 MR. GOODSTADT: Off the record for 09:43:40</p> <p>16 one minute.</p> <p>17 THE VIDEOGRAPHER: The time is</p> <p>18 9:45, we are off the record.</p> <p>19 (Recess taken.)</p> <p>20 THE VIDEOGRAPHER: The time is 09:51:48</p> <p>21 9:53, we are on the record.</p> <p>22 Q. Mr. Hesse, I want to go back to</p> <p>23 your discussions with Jeannie Jaeger both on</p> <p>24 the phone and when you went to her house with</p> <p>25 Mr. Cherry. Did you ever ask her why she 09:52:06</p>
Page 528	Page 530
<p>1 Hesse</p> <p>2 made?</p> <p>3 MR. NOVIKOFF: Objection to the</p> <p>4 form.</p> <p>5 A. Specifically no. 09:41:54</p> <p>6 Q. Did you review the on duty</p> <p>7 officers field report from that evening?</p> <p>8 A. Yes.</p> <p>9 Q. When did you review that for the</p> <p>10 first time? 09:42:12</p> <p>11 A. I believe it was that Monday</p> <p>12 morning.</p> <p>13 Q. And what was your reaction to</p> <p>14 reading that report?</p> <p>15 A. I don't know if I really had a 09:42:22</p> <p>16 reaction. I don't really recall what I had</p> <p>17 thought.</p> <p>18 Q. Did you read that at the same time</p> <p>19 that you read the witness statements that had</p> <p>20 been taken the night of the Halloween 09:42:39</p> <p>21 incident?</p> <p>22 A. Yes, I read them as a packet.</p> <p>23 Q. And the photos that have been</p> <p>24 marked as Hesse Exhibit 17, they were part of</p> <p>25 that packet? 09:42:52</p>	<p>1 Hesse</p> <p>2 didn't provide a statement that night to the</p> <p>3 on duty police officers?</p> <p>4 A. Yes, she felt that because she saw</p> <p>5 an ambulance in front of the police station, 09:52:21</p> <p>6 that she felt that they were busy and she</p> <p>7 didn't want to bother anybody.</p> <p>8 Q. Do you know where she went after</p> <p>9 Hauser's that night?</p> <p>10 A. I don't recall where she went. 09:52:38</p> <p>11 Q. You never heard that she went to</p> <p>12 CJ's after Hauser's?</p> <p>13 A. I don't recall. She might have.</p> <p>14 Q. Do you have to pass the police</p> <p>15 station to get from Hauser's to CJ's? 09:52:49</p> <p>16 A. Yes.</p> <p>17 Q. Do you have to pass the police</p> <p>18 station to get from CJ's back from their</p> <p>19 residence?</p> <p>20 A. No. 09:52:57</p> <p>21 Q. How far is CJ's from the police</p> <p>22 station?</p> <p>23 A. Maybe 50 steps.</p> <p>24 Q. 50 steps?</p> <p>25 A. Maybe. 09:53:03</p>

<p style="text-align: right;">Page 531</p> <p>1 Hesse</p> <p>2 Q. Did you ask her whether the --</p> <p>3 strike that.</p> <p>4 You never spoke to her about</p> <p>5 whether she was at CJ's that night after 09:53:08</p> <p>6 Hauser's?</p> <p>7 MR. CONNOLLY: Objection.</p> <p>8 A. I don't recall.</p> <p>9 Q. Did you ask her why she didn't</p> <p>10 give a statement to the on duty officers at 09:53:16</p> <p>11 Hauser's?</p> <p>12 MR. CONNOLLY: Objection.</p> <p>13 MR. NOVIKOFF: Objection.</p> <p>14 A. I don't recall.</p> <p>15 Q. Do you know whether -- strike 09:53:24</p> <p>16 that.</p> <p>17 Did she tell you that she didn't</p> <p>18 want to bother anybody when she saw the</p> <p>19 ambulance, did she tell you that during the</p> <p>20 phone call or did she tell you that during the 09:53:35</p> <p>21 visit to her house?</p> <p>22 A. I don't recall.</p> <p>23 Q. Do you know whether it was</p> <p>24 incorporated into her witness statement?</p> <p>25 A. I don't recall if it was or not. 09:53:44</p>	<p style="text-align: right;">Page 533</p> <p>1 Hesse</p> <p>2 Q. Would they be confidential?</p> <p>3 A. To a point.</p> <p>4 Q. What do you mean by to a point?</p> <p>5 A. They are not for the general 09:54:49</p> <p>6 public to look at.</p> <p>7 Q. Were they for other officers to</p> <p>8 look at other than for you and Mr. Cherry?</p> <p>9 A. I don't think I would have hid</p> <p>10 them from anybody. 09:55:02</p> <p>11 Q. Did you leave them out for anybody</p> <p>12 to look at?</p> <p>13 A. Not specifically that I recall.</p> <p>14 Q. Did you ever show them to Gary</p> <p>15 Bosetti? 09:55:11</p> <p>16 A. Yes.</p> <p>17 Q. When did you show them to Gary</p> <p>18 Bosetti?</p> <p>19 A. I don't recall when.</p> <p>20 Q. Did you show them before or after 09:55:16</p> <p>21 he provided his statement?</p> <p>22 A. It might have been after.</p> <p>23 Q. You don't recall showing them to</p> <p>24 him before?</p> <p>25 A. No. 09:55:24</p>
<p style="text-align: right;">Page 532</p> <p>1 Hesse</p> <p>2 Q. Do you think that is an important</p> <p>3 fact that should be incorporated into a</p> <p>4 witness statement?</p> <p>5 MR. NOVIKOFF: Objection. 09:53:55</p> <p>6 A. May have.</p> <p>7 Q. It may have been important to</p> <p>8 incorporate in a witness statement?</p> <p>9 A. May have.</p> <p>10 Q. What do you mean by that? 09:54:02</p> <p>11 A. We just told her to tell us what</p> <p>12 happened. You know, it is funny, I don't</p> <p>13 recall whether or not she told me within those</p> <p>14 first five days or when we took the statement</p> <p>15 or after. I must have seen her a hundred 09:54:18</p> <p>16 times since then, so I don't recall.</p> <p>17 Q. So it is possible that you didn't</p> <p>18 even ask her that during the five days?</p> <p>19 A. I don't recall.</p> <p>20 Q. The witness statements that were 09:54:28</p> <p>21 prepared by, written by you and Mr. Cherry,</p> <p>22 are those considered police property?</p> <p>23 MR. NOVIKOFF: Objection to the</p> <p>24 form.</p> <p>25 A. I would say yes. 09:54:42</p>	<p style="text-align: right;">Page 534</p> <p>1 Hesse</p> <p>2 Q. Would it have been improper for</p> <p>3 him to review the other witness' statements</p> <p>4 before giving his own witness statement?</p> <p>5 MR. CONNOLLY: Objection. 09:55:33</p> <p>6 MR. NOVIKOFF: Objection.</p> <p>7 A. I don't believe so.</p> <p>8 Q. So you think it would have been</p> <p>9 proper for him to review everybody else's</p> <p>10 witness statement prior to his statement being 09:55:39</p> <p>11 taken?</p> <p>12 MR. NOVIKOFF: Objection.</p> <p>13 A. You know at that point I don't</p> <p>14 think it really would have mattered.</p> <p>15 Q. Why not? 09:55:50</p> <p>16 A. Because we felt that his actions</p> <p>17 were correct.</p> <p>18 Q. So why did you ask him for a</p> <p>19 statement?</p> <p>20 A. Because we actually wanted to see 09:55:57</p> <p>21 what he had to say.</p> <p>22 Q. So again prior to actually seeing</p> <p>23 what he had to say do you think it would have</p> <p>24 been proper to show him all the other eye</p> <p>25 witness statements that had been taken? 09:56:10</p>

1 Hesse
2 MR. CONNOLLY: Objection.
3 A. Yeah, I don't recall whether or
4 not he did. To tell you the truth I don't
5 believe he did until afterwards. 09:56:19
6 Q. I am not asking whether he did or
7 didn't, I am asking whether it would have been
8 proper to have provided him with the other
9 witness statements prior to finding out what
10 he had to say? 09:56:28
11 MR. NOVIKOFF: Note my objection.
12 MR. CONNOLLY: Objection.
13 A. I don't think it would have been
14 proper, but like I said I don't recall whether
15 he did or not. I don't think he did. 09:56:40
16 Q. Would it have been proper for him
17 to just make photocopies of the statements and
18 take them home with him?
19 A. I don't --
20 MR. NOVIKOFF: Objection. 09:56:53
21 A. I don't believe he did.
22 Q. The question wasn't whether he did
23 or didn't. The question was whether it would
24 have been proper for him to do so?
25 MR. NOVIKOFF: Objection. 09:56:59

1 Hesse
2 A. If he asked permission I don't
3 think it would have been improper.
4 Q. How about if he didn't ask
5 permission? 09:57:05
6 A. I think that would be improper.
7 Q. Would it be grounds for
8 termination?
9 A. Not specifically.
10 Q. Why not? 09:57:12
11 A. Why should he be; I don't know.
12 Q. Did you terminate David Gerbin
13 (phonetic) for making photocopies of police
14 documents?
15 A. He did more than that. 09:57:28
16 Q. Was that one of the reasons that
17 you terminated him?
18 A. Yes.
19 Q. What were the other reasons that
20 you terminated Gerbin? 09:57:35
21 A. He was in my desk going through my
22 personal documents, not just a file that was
23 left on a desk.
24 Q. Anything else that Gerbin did that
25 you terminated him for? 09:57:46

1 Hesse
2 A. He went through people's personnel
3 files and took copies of that stuff too, I
4 don't find that to be proper.
5 Q. Anything else that you fired 09:57:54
6 Gerbin for?
7 A. I believe that was it.
8 Q. And that was -- you saw that on
9 the videotape, Gerbin taking the stuff?
10 A. Yes. 09:58:17
11 Q. Did you keep a copy of that tape?
12 A. Yes.
13 Q. I believe you testified that
14 Mr. Paradiso had spoken to Elyse Miller; is
15 that correct? 09:58:30
16 MR. NOVIKOFF: Objection.
17 A. Yes.
18 Q. How did you learn that he spoke
19 with Elyse Miller?
20 A. I believe he had stated to me that 09:58:43
21 he did and Elyse Miller had said that he came
22 up to the house.
23 Q. What house is that?
24 A. I don't specifically remember.
25 Q. You don't know -- so she told you 09:58:49

1 Hesse
2 that she spoke with Ed Paradiso when he came
3 up to the house?
4 A. Yes, where she was staying that
5 night. 09:59:01
6 Q. Did she tell you which house it
7 was?
8 A. If I recall correctly I think it
9 was Michael Miller's house on Barberry Walk.
10 Q. Was Gary Bosetti staying there 09:59:11
11 that night?
12 A. I don't recall.
13 Q. Did you ever ask him?
14 A. I don't recall if I did or not.
15 Q. Do you know whether Richard 09:59:18
16 Bosetti was staying there that night?
17 A. I don't recall.
18 Q. Did you ever ask him?
19 A. Actually he made a statement that
20 he stayed in the barracks. 09:59:29
21 Q. Do you know whether he was
22 planning to stay at Michael Miller's house
23 that evening?
24 A. I don't know.
25 Q. Did Ms. Miller provide -- strike 09:59:40

<p style="text-align: right;">Page 539</p> <p>1 Hesse</p> <p>2 that.</p> <p>3 What else did Mr. Paradiso tell</p> <p>4 you if anything about his discussion with</p> <p>5 Ms. Miller? 09:59:49</p> <p>6 A. I don't recall.</p> <p>7 Q. Do you recall anything he told you</p> <p>8 about his discussion with Ms. Miller other</p> <p>9 than the fact that he spoke with her?</p> <p>10 A. No, I don't recall. 09:59:58</p> <p>11 Q. When was the first time that you</p> <p>12 spoke with Elyse Miller about Halloween?</p> <p>13 A. I don't remember the exact date,</p> <p>14 but I believe it was over the telephone.</p> <p>15 Q. Was it prior to or after your 10:00:10</p> <p>16 discussion on that Monday or on that Tuesday</p> <p>17 with Doug Wyckoff?</p> <p>18 A. Well, I know Officer Cherry was</p> <p>19 present when I spoke to her on the phone</p> <p>20 because he was listening in. Actually I was 10:00:28</p> <p>21 listening in to him. So it had to be a couple</p> <p>22 of days after.</p> <p>23 Q. So your discussion with Ms. Miller</p> <p>24 was a couple of days after that Tuesday?</p> <p>25 A. A day or two possibly, I don't 10:00:41</p>	<p style="text-align: right;">Page 541</p> <p>1 Hesse</p> <p>2 remember her saying that then a male and a</p> <p>3 female came out of the bathroom. Next thing</p> <p>4 you know a fight broke out and her and Jeannie</p> <p>5 somehow got themselves into the bathroom to 10:01:51</p> <p>6 stay away from the fight. That is basically</p> <p>7 what I recall. I don't remember specifics.</p> <p>8 Q. And who was -- who was on that</p> <p>9 call?</p> <p>10 A. I believe it was myself and John 10:02:04</p> <p>11 Cherry, Pat Cherry.</p> <p>12 Q. Did you ask -- strike that.</p> <p>13 Do you know whether Ms. Miller was</p> <p>14 drinking that evening?</p> <p>15 A. I don't recall. 10:02:13</p> <p>16 Q. Did you ask her?</p> <p>17 A. I don't recall.</p> <p>18 Q. Do you think that would have been</p> <p>19 an important question to ask Ms. Miller?</p> <p>20 MR. NOVIKOFF: Objection. 10:02:22</p> <p>21 A. May have.</p> <p>22 Q. What do you mean by may have?</p> <p>23 A. It just may have. I think it was</p> <p>24 irrelevant, but I don't recall her if we asked</p> <p>25 her or not. 10:02:32</p>
<p style="text-align: right;">Page 540</p> <p>1 Hesse</p> <p>2 know.</p> <p>3 Q. So your recollection it was either</p> <p>4 Wednesday or Thursday?</p> <p>5 A. It is possible, I don't know. 10:00:48</p> <p>6 Q. Did you call her or did she call</p> <p>7 you?</p> <p>8 A. I don't remember.</p> <p>9 Q. Tell me everything that you recall</p> <p>10 that she said about what happened on Halloween 10:01:01</p> <p>11 during that phone call?</p> <p>12 MR. CONNOLLY: That phone call</p> <p>13 being?</p> <p>14 Q. The one that you testified to the</p> <p>15 first time that you spoke with her? 10:01:09</p> <p>16 A. I think we just basically asked</p> <p>17 her what she observed, and she said she was</p> <p>18 waiting on line for the bathroom. She</p> <p>19 remembers being on line for quite a while,</p> <p>20 possibly fifteen minutes or more. She was 10:01:20</p> <p>21 standing behind who she now knows as Jeannie</p> <p>22 Jaeger who was the first one on line. I guess</p> <p>23 they were having a discussion about how long</p> <p>24 they were waiting on line.</p> <p>25 They kept knocking on the door. I 10:01:34</p>	<p style="text-align: right;">Page 542</p> <p>1 Hesse</p> <p>2 Q. Why would it be irrelevant about</p> <p>3 whether an alleged eyewitness was drinking?</p> <p>4 A. Because what she told us is what</p> <p>5 we believed happened, so. And she was not 10:02:42</p> <p>6 intoxicated when we were asking her those</p> <p>7 questions.</p> <p>8 Q. But if she was intoxicated at the</p> <p>9 time it could have affected her judgment?</p> <p>10 A. It is possible. 10:02:55</p> <p>11 Q. Could it have affected her ability</p> <p>12 to recall facts?</p> <p>13 MR. NOVIKOFF: Objection.</p> <p>14 A. It is possible.</p> <p>15 Q. Could it have affected her 10:03:06</p> <p>16 perception?</p> <p>17 MR. NOVIKOFF: Objection.</p> <p>18 A. Sure.</p> <p>19 Q. Yet you still think it is</p> <p>20 irrelevant? 10:03:15</p> <p>21 A. Yes.</p> <p>22 Q. Did she ever provide a witness</p> <p>23 statement in writing?</p> <p>24 A. Yes.</p> <p>25 Q. Before we get to that, did you 10:03:22</p>

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<p>1 Hesse</p> <p>2 take any notes of that phone conversation?</p> <p>3 A. I don't believe we did.</p> <p>4 Q. How come?</p> <p>5 A. I think we just asked her to write 10:03:31</p> <p>6 down her recollection of what happened and</p> <p>7 send it to us.</p> <p>8 Q. But she had already given you a</p> <p>9 verbal recollection; is that correct?</p> <p>10 A. Yes. 10:03:40</p> <p>11 Q. You didn't take any notes of what</p> <p>12 she said verbally?</p> <p>13 MR. CONNOLLY: Objection.</p> <p>14 A. I specifically didn't. I am</p> <p>15 unaware if John Cherry did, or Patrick Cherry 10:03:47</p> <p>16 he is known as.</p> <p>17 Q. Don't you think it would have been</p> <p>18 important to write down what she said to you</p> <p>19 in case her written statement contradicted it?</p> <p>20 A. No. 10:04:00</p> <p>21 MR. GOODSTADT: Would you mark</p> <p>22 this document as Hesse Exhibit 19,</p> <p>23 handwritten statement dated November 1,</p> <p>24 2004.</p> <p>25 (Hesse Exhibit 19, handwritten 10:04:09</p>	<p>1 Hesse</p> <p>2 Q. Any reason to believe that it was</p> <p>3 not provided to you on that Monday?</p> <p>4 A. Say that again.</p> <p>5 Q. Any reason to believe that this 10:05:44</p> <p>6 was not provided to you on that Monday?</p> <p>7 A. No.</p> <p>8 Q. Was Pat Cherry assisting you by</p> <p>9 that Monday?</p> <p>10 A. You know, I don't recall if he 10:05:52</p> <p>11 came in Monday, Tuesday or Wednesday.</p> <p>12 Q. How did this statement come into</p> <p>13 the station?</p> <p>14 A. I believe originally it may have</p> <p>15 been faxed first and then we asked her to take 10:06:05</p> <p>16 it to a notary, have it notarized and send us</p> <p>17 the original.</p> <p>18 Q. It came to the fax machine in the</p> <p>19 police station?</p> <p>20 MR. CONNOLLY: Objection. 10:06:24</p> <p>21 A. I believe so.</p> <p>22 Q. Did you -- strike that.</p> <p>23 Did she ever mention to you</p> <p>24 anything about Gary Bosetti using a pool cue</p> <p>25 to strike somebody? 10:06:40</p>
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<p>1 Hesse</p> <p>2 statement dated November 1, 2004,</p> <p>3 marked for identification, as of this</p> <p>4 date.)</p> <p>5 Q. I placed in front of Mr. Hesse 10:04:40</p> <p>6 what has been marked as Hesse Exhibit 19. It</p> <p>7 is a multiple page exhibit bearing Bates</p> <p>8 numbers 3169 through 3175.</p> <p>9 Mr. Hesse, do you recall ever</p> <p>10 reading or seeing the document that has been 10:05:02</p> <p>11 marked as Hesse Exhibit 19?</p> <p>12 A. Yes.</p> <p>13 Q. This is -- what is this document?</p> <p>14 A. This is Elyse Miller's</p> <p>15 recollection of what happened that night. 10:05:16</p> <p>16 Q. Do you see on the first page dated</p> <p>17 November 1, 2004, do you see that?</p> <p>18 A. Yes.</p> <p>19 Q. That was actually Monday; is that</p> <p>20 correct? 10:05:24</p> <p>21 A. Yes.</p> <p>22 Q. Does this refresh your</p> <p>23 recollection as to who when you spoke with</p> <p>24 Ms. Miller?</p> <p>25 A. No. 10:05:30</p>	<p>1 Hesse</p> <p>2 A. I don't recall if she did or not,</p> <p>3 I would have to read this whole thing again.</p> <p>4 Q. I represent to you that there is</p> <p>5 nothing in this statement that mentioned 10:06:49</p> <p>6 anything about a pool cue.</p> <p>7 A. Okay.</p> <p>8 Q. Did you think that that would be</p> <p>9 strange that an eyewitness who allegedly saw</p> <p>10 the whole incident would leave out the fact 10:06:58</p> <p>11 that Gary Bosetti used a pool cue to strike</p> <p>12 somebody?</p> <p>13 MR. CONNOLLY: Objection.</p> <p>14 MR. NOVIKOFF: Objection.</p> <p>15 A. I never said that she saw the 10:07:04</p> <p>16 whole incident, and we asked her in her best</p> <p>17 recollection to give us a statement on what</p> <p>18 she observed.</p> <p>19 Q. Out of all the witness statements</p> <p>20 that you took do you recall any of the alleged 10:07:19</p> <p>21 eyewitnesses mentioning that Gary Bosetti used</p> <p>22 a pool cue to strike somebody?</p> <p>23 A. You know I don't think anybody</p> <p>24 ever mentioned a pool cue.</p> <p>25 Q. Did you think that that was 10:07:32</p>

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<p>1 Hesse</p> <p>2 strange that nobody mentioned a pool cue?</p> <p>3 MR. CONNOLLY: Objection.</p> <p>4 MR. NOVIKOFF: Objection.</p> <p>5 A. Yes. 10:07:36</p> <p>6 Q. It is an important fact that was</p> <p>7 omitted by all the eyewitness statements that</p> <p>8 you had taken?</p> <p>9 MR. NOVIKOFF: Objection.</p> <p>10 A. Everything was done in their 10:07:45</p> <p>11 words, I am not going to put words in their</p> <p>12 mouth.</p> <p>13 Q. Did you weigh -- strike that.</p> <p>14 Did you use the fact that nobody</p> <p>15 mentioned Gary Bosetti using a pool cue as 10:07:55</p> <p>16 part of your credibility analysis?</p> <p>17 A. Credibility of who?</p> <p>18 MR. NOVIKOFF: Objection.</p> <p>19 Q. Of the eyewitnesses?</p> <p>20 MR. NOVIKOFF: Objection. 10:08:07</p> <p>21 A. Their statements are their</p> <p>22 statements.</p> <p>23 Q. But you had to make a credibility</p> <p>24 assessment as to whose statements were</p> <p>25 accurate and whose were not; is that correct? 10:08:15</p>	<p>1 Hesse</p> <p>2 MR. CONNOLLY: Objection.</p> <p>3 A. Correct.</p> <p>4 Q. So I will go back to the same</p> <p>5 question. So you did make a credibility 10:09:04</p> <p>6 assessment as to the three people who gave</p> <p>7 statements the night of the incident; correct?</p> <p>8 A. If you say so, yes.</p> <p>9 Q. I am not asking about what I say,</p> <p>10 I am asking about you? 10:09:16</p> <p>11 A. I believe that they were lies.</p> <p>12 Q. Did you believe that any other</p> <p>13 witnesses provided any lies in their</p> <p>14 statements?</p> <p>15 A. Not that I recall, no. 10:09:32</p> <p>16 Q. So you view them as credible?</p> <p>17 A. Yes.</p> <p>18 Q. So I will go back to the question</p> <p>19 again. You did make a credibility assessment</p> <p>20 as part of your investigation; is that 10:09:44</p> <p>21 correct?</p> <p>22 MR. NOVIKOFF: Objection.</p> <p>23 A. At that time I don't recall.</p> <p>24 Q. And were you friends with Elyse</p> <p>25 Miller at the time? 10:09:59</p>
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<p>1 Hesse</p> <p>2 A. Their statements were this</p> <p>3 statements.</p> <p>4 Q. Well did you make a credibility</p> <p>5 assessment as part of your investigation? 10:08:21</p> <p>6 A. Not that I specifically recall.</p> <p>7 Q. Well, you already testified that</p> <p>8 you thought that the three people who were</p> <p>9 involved with the fight that gave statements</p> <p>10 that night had blatant lies in their 10:08:37</p> <p>11 statements; correct?</p> <p>12 MR. CONNOLLY: Objection.</p> <p>13 A. That is what I felt.</p> <p>14 Q. So that was making a credibility</p> <p>15 determination about the three of them; 10:08:44</p> <p>16 correct?</p> <p>17 MR. NOVIKOFF: Objection.</p> <p>18 A. In your opinion, yes.</p> <p>19 Q. How about your opinion?</p> <p>20 A. I thought they were lying. 10:08:52</p> <p>21 Q. And you didn't believe their</p> <p>22 statements; right?</p> <p>23 A. Yes.</p> <p>24 Q. You did not believe they were</p> <p>25 credible; is that correct? 10:09:00</p>	<p>1 Hesse</p> <p>2 A. We were acquaintances.</p> <p>3 Q. Was she ever a friend of yours on</p> <p>4 Face Book?</p> <p>5 A. Yes, at one time. 10:10:06</p> <p>6 Q. What do you mean by at one time?</p> <p>7 A. I deleted her as a friend.</p> <p>8 Q. How come?</p> <p>9 A. Because we are not friends.</p> <p>10 Q. Were you friends during the period 10:10:16</p> <p>11 that she was a friend on Face Book?</p> <p>12 A. No.</p> <p>13 Q. So why did you delete her --</p> <p>14 strike that.</p> <p>15 The reason that you deleted her is 10:10:25</p> <p>16 because you are not friends?</p> <p>17 A. Correct.</p> <p>18 Q. So why didn't you delete her --</p> <p>19 strike that?</p> <p>20 How long was she a friend of yours 10:10:32</p> <p>21 on Face Book?</p> <p>22 A. I barely had been on Face Book for</p> <p>23 a year. I just didn't find it necessary for</p> <p>24 her to be a friend of mine on Face Book.</p> <p>25 Q. Anything else happen between the 10:10:44</p>

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<p>1 Hesse</p> <p>2 two of you that caused you to delete her as a</p> <p>3 friend in Face Book?</p> <p>4 MR. BAPTISTE: This is a surreal</p> <p>5 line of questioning, but I am not 10:10:54</p> <p>6 objecting.</p> <p>7 A. No.</p> <p>8 Q. Was she a friend of yours on your</p> <p>9 My Space account?</p> <p>10 A. You know I don't think so. 10:11:02</p> <p>11 Q. Was she a friend of yours or an</p> <p>12 acquaintance or whatever they call it on any</p> <p>13 other social networking Internet site?</p> <p>14 A. No.</p> <p>15 Q. Did you ask her why she didn't 10:11:21</p> <p>16 give a statement the night of the incident?</p> <p>17 A. I don't recall.</p> <p>18 Q. Did she tell you why she didn't</p> <p>19 give a statement the night of the incident?</p> <p>20 A. I don't recall. 10:11:30</p> <p>21 Q. Did you ask her why she didn't go</p> <p>22 to the police station that evening?</p> <p>23 A. I don't recall if we did or not.</p> <p>24 Q. Is it your testimony that you</p> <p>25 don't know whether Gary Bosetti stayed at the 10:11:42</p>	<p>1 Hesse</p> <p>2 Q. Who else was there at the time of</p> <p>3 the statement?</p> <p>4 A. I don't recall.</p> <p>5 Q. What day did you take his 10:12:36</p> <p>6 statement?</p> <p>7 A. I don't recall.</p> <p>8 Q. Do you recall, do you know whether</p> <p>9 Mr. Levine was drinking that evening?</p> <p>10 A. I don't know. 10:12:49</p> <p>11 Q. Did you ask him?</p> <p>12 A. I don't recall.</p> <p>13 Q. Is this the same Ian Levine that</p> <p>14 you had worked for installing cable?</p> <p>15 A. Yes. 10:12:58</p> <p>16 Q. You testified I think the first</p> <p>17 day of your deposition that he paid you in</p> <p>18 cash; is that correct?</p> <p>19 A. Correct.</p> <p>20 Q. That you didn't pay taxes on that 10:13:09</p> <p>21 money; right?</p> <p>22 A. Right.</p> <p>23 MR. GOODSTADT: Would you mark</p> <p>24 this document as Hesse Exhibit 20,</p> <p>25 handwritten statement dated November 2, 10:13:24</p>
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<p>1 Hesse</p> <p>2 same house as Elyse Miller that night?</p> <p>3 A. I don't know.</p> <p>4 Q. If he did do you believe that that</p> <p>5 would factor on her credibility at all? 10:11:53</p> <p>6 A. No.</p> <p>7 Q. Were they friends?</p> <p>8 A. I believe they are friends.</p> <p>9 Q. Did they have a sexual</p> <p>10 relationship? 10:12:02</p> <p>11 MR. NOVIKOFF: Objection.</p> <p>12 A. I don't know.</p> <p>13 MR. NOVIKOFF: If you are going to</p> <p>14 ask him did he personally witness or did</p> <p>15 Gary tell him, that is fine. 10:12:10</p> <p>16 Q. Did you ever hear that they had a</p> <p>17 sexual relationship?</p> <p>18 A. No.</p> <p>19 Q. Do you know whether -- well strike</p> <p>20 that. 10:12:19</p> <p>21 Did you ever take a witness</p> <p>22 statement from Ian Levine about that evening?</p> <p>23 A. Yes.</p> <p>24 Q. You took his statement?</p> <p>25 A. I think I did. 10:12:28</p>	<p>1 Hesse</p> <p>2 2004.</p> <p>3 (Hesse Exhibit 20, handwritten</p> <p>4 statement dated November 2, 2004,</p> <p>5 marked for identification, as of this 10:13:25</p> <p>6 date.)</p> <p>7 Q. I place in front of Mr. Hesse what</p> <p>8 is marked as Hesse Exhibit 20. It is a</p> <p>9 two-page exhibit bearing Bates 3176 and 3177.</p> <p>10 Mr. Hesse, do you recognize the 10:13:58</p> <p>11 document marked as Hesse Exhibit 20?</p> <p>12 A. Yes.</p> <p>13 Q. What is this document?</p> <p>14 A. This is a statement by Ian Levine</p> <p>15 that was taken by John Cherry. 10:14:04</p> <p>16 Q. Does this refresh your</p> <p>17 recollection as to whether you took his</p> <p>18 statement?</p> <p>19 A. Yes.</p> <p>20 Q. Were you with Mr. Cherry and 10:14:12</p> <p>21 Mr. Levine at the time that this statement was</p> <p>22 provided?</p> <p>23 A. No.</p> <p>24 Q. So your recollection before about</p> <p>25 taking a witness statement from Mr. Levine is 10:14:19</p>

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<p>1 Hesse</p> <p>2 incorrect, or did you take a separate</p> <p>3 statement?</p> <p>4 A. You are correct, I was mistaken.</p> <p>5 Q. Did you review this witness 10:14:30</p> <p>6 statement as part of your investigation?</p> <p>7 A. Yes, at some point I did read it.</p> <p>8 Q. And again you don't know if he was</p> <p>9 drinking that evening?</p> <p>10 A. I don't know. 10:14:39</p> <p>11 Q. Did you take a statement of one</p> <p>12 Mr. Sean O'Rourke as part of your</p> <p>13 investigation?</p> <p>14 A. We did, but I did not do it</p> <p>15 personally. 10:14:57</p> <p>16 Q. Who took that statement?</p> <p>17 A. John Cherry, Pat Cherry.</p> <p>18 Q. Is Mr. O'Rourke -- who is Sean</p> <p>19 O'Rourke?</p> <p>20 A. Just a local resident. 10:15:14</p> <p>21 Q. Does he work anywhere in the</p> <p>22 village?</p> <p>23 MR. CONNOLLY: Now?</p> <p>24 Q. At the time?</p> <p>25 A. At the time, yes, he did a lot of 10:15:20</p>	<p>1 Hesse</p> <p>2 A. It was based on a lot of things.</p> <p>3 It was based on the packaging, the amount and</p> <p>4 the paraphernalia.</p> <p>5 Q. When was that arrest? 10:16:11</p> <p>6 A. Good question. It was in the</p> <p>7 month of January, I don't know, 2004, 2005.</p> <p>8 Q. Was it before or after you took</p> <p>9 his statement?</p> <p>10 A. I don't know. You know what, it 10:16:26</p> <p>11 was definitely before the statement.</p> <p>12 Q. So at the time the statement was</p> <p>13 taken you had known that he was a convicted</p> <p>14 drug dealer; is that correct?</p> <p>15 A. Yes. 10:16:40</p> <p>16 Q. What was he actually convicted</p> <p>17 for?</p> <p>18 MR. CONNOLLY: Objection to the</p> <p>19 extent that we know that he was arrested</p> <p>20 before. I don't know if it was 10:16:45</p> <p>21 established that he was convicted.</p> <p>22 Q. Do you know when the conviction</p> <p>23 was?</p> <p>24 A. I don't remember exactly what the</p> <p>25 date was. 10:16:53</p>
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<p>1 Hesse</p> <p>2 different things.</p> <p>3 Q. Was he working the night of the</p> <p>4 Halloween incident?</p> <p>5 A. I believe he was the doorman. 10:15:26</p> <p>6 Q. The doorman of where?</p> <p>7 A. Hauser's.</p> <p>8 Q. Did you review his witness</p> <p>9 statement as part of your investigation?</p> <p>10 A. I believe I did. 10:15:36</p> <p>11 Q. Was Mr. O'Rourke arrested for</p> <p>12 cocaine possession?</p> <p>13 A. At some point, yes.</p> <p>14 Q. Was he prosecuted?</p> <p>15 A. Yes, he was. 10:15:45</p> <p>16 Q. Was he found guilty?</p> <p>17 A. Yes, he was.</p> <p>18 Q. Was it just for possession or was</p> <p>19 there any other crimes?</p> <p>20 A. It was intent to sell and 10:15:51</p> <p>21 possession.</p> <p>22 Q. Intent to sell was based on the</p> <p>23 quantity or based on the fact that he had some</p> <p>24 paraphernalia for selling or what was the</p> <p>25 basis? 10:16:02</p>	<p>1 Hesse</p> <p>2 Q. Was it before or after the</p> <p>3 Halloween statement that he gave to you?</p> <p>4 A. The conviction was possibly before</p> <p>5 this also. 10:16:58</p> <p>6 Q. What was he convicted for?</p> <p>7 A. You know, I don't remember the</p> <p>8 exact plea deal, what he was convicted on. I</p> <p>9 don't remember exactly.</p> <p>10 Q. But it was a drug related 10:17:09</p> <p>11 conviction?</p> <p>12 A. Yes.</p> <p>13 Q. So at the time he gave you this</p> <p>14 witness statement you knew he had been</p> <p>15 convicted of a drug related crime? 10:17:17</p> <p>16 A. Yes.</p> <p>17 Q. Did you -- did his statement play</p> <p>18 any role in your conclusion that you reached</p> <p>19 within those five days?</p> <p>20 A. Did it play a role; to what 10:17:32</p> <p>21 extent; I don't recall.</p> <p>22 Q. Well did you believe his statement</p> <p>23 to be credible?</p> <p>24 A. Sure.</p> <p>25 Q. Do you know whether Mr. O'Rourke 10:17:44</p>

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<p>1 Hesse</p> <p>2 was drinking that night?</p> <p>3 A. I don't recall.</p> <p>4 Q. Did you ask him?</p> <p>5 A. I don't recall. 10:17:49</p> <p>6 Q. Do you know whether Mr. O'Rourke</p> <p>7 was doing drugs that night?</p> <p>8 A. I don't know, I didn't interview</p> <p>9 him, so I don't know.</p> <p>10 Q. Do you know whether Mr. Cherry 10:17:56</p> <p>11 asked him whether he was doing drugs that</p> <p>12 night?</p> <p>13 A. I don't know.</p> <p>14 Q. Do you know whether Mr. Cherry</p> <p>15 asked him if he was drinking that night? 10:18:02</p> <p>16 A. I don't know.</p> <p>17 Q. Do you think it would have been</p> <p>18 important to find out whether or not a</p> <p>19 eyewitness was doing drugs on the night of the</p> <p>20 alleged incident? 10:18:10</p> <p>21 MR. NOVIKOFF: Objection.</p> <p>22 A. Sure, I guess we could have asked.</p> <p>23 Q. Particularly after he has already</p> <p>24 been convicted of a drug crime?</p> <p>25 MR. NOVIKOFF: Objection. 10:18:19</p>	<p>1 Hesse</p> <p>2 place?</p> <p>3 A. Specifically no.</p> <p>4 Q. Were you there when it happened?</p> <p>5 A. Yes. 10:19:09</p> <p>6 Q. Where was it?</p> <p>7 A. Police station.</p> <p>8 Q. Who was there?</p> <p>9 A. John Cherry was there, but he was</p> <p>10 sitting at the front desk, myself, Gary 10:19:16</p> <p>11 Bosetti, Richie Bosetti and Ed Paradiso was in</p> <p>12 the squad room.</p> <p>13 Q. I believe you testified that you</p> <p>14 got his statement because you wanted to hear</p> <p>15 what he had to say; is that correct? 10:19:34</p> <p>16 A. Yes.</p> <p>17 Q. How come you did -- strike that.</p> <p>18 Do you recall taking it during the</p> <p>19 first five days in which you reached your</p> <p>20 conclusions? 10:19:45</p> <p>21 A. I don't recall whether I did or</p> <p>22 not.</p> <p>23 MR. GOODSTADT: Would you mark</p> <p>24 this document as Hesse Exhibit 21,</p> <p>25 internal correspondence, November 12, 10:20:09</p>
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<p>1 Hesse</p> <p>2 A. I didn't interview him.</p> <p>3 Q. I am asking you whether you think</p> <p>4 it was important to ask that question?</p> <p>5 MR. NOVIKOFF: Objection. 10:18:25</p> <p>6 A. It may have been.</p> <p>7 Q. You think it would have been</p> <p>8 important to ask him whether he was drinking</p> <p>9 that night?</p> <p>10 MR. NOVIKOFF: Objection. 10:18:30</p> <p>11 A. It could have been, yes.</p> <p>12 Q. I believe you testified before</p> <p>13 that you got a statement from Gary Bosetti; is</p> <p>14 that correct?</p> <p>15 A. At some point, yes. 10:18:39</p> <p>16 Q. When was that?</p> <p>17 A. I don't remember the exact date.</p> <p>18 Q. Was it before or after you had</p> <p>19 gotten the statement from Sean O'Rourke?</p> <p>20 A. I believe it was after. 10:18:50</p> <p>21 Q. At some point was Gary rehired?</p> <p>22 A. Yes.</p> <p>23 Q. Who rehired him?</p> <p>24 A. Ed Paradiso.</p> <p>25 Q. Do you recall when that took 10:18:59</p>	<p>1 Hesse</p> <p>2 2004.</p> <p>3 (Hesse Exhibit 21, internal</p> <p>4 correspondence, November 12, 2004,</p> <p>5 marked for identification, as of this 10:20:10</p> <p>6 date.)</p> <p>7 Q. I placed in front of Mr. Hesse</p> <p>8 what is marked as Exhibit 21, Bates number</p> <p>9 3158. Mr. Hesse, do you recognize this</p> <p>10 document? 10:20:45</p> <p>11 A. Yes.</p> <p>12 Q. What is this document?</p> <p>13 A. Typed statement given by Gary</p> <p>14 Bosetti.</p> <p>15 Q. You see it is dated November 12, 10:20:51</p> <p>16 2004, do you see that?</p> <p>17 A. Yes.</p> <p>18 Q. Do you know whether he provided</p> <p>19 a -- strike that.</p> <p>20 How did you receive this 10:21:01</p> <p>21 statement?</p> <p>22 A. I believe he did this in the</p> <p>23 police station. I think we had him come to</p> <p>24 the station house.</p> <p>25 Q. He typed it up in the police 10:21:11</p>

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1 Hesse
2 station?
3 A. I don't recall if I typed it as he
4 said it or if he typed it himself.
5 Q. But to your recollection there was 10:21:19
6 no handwritten version of this from you or him
7 or somebody else?
8 A. No.
9 Q. You see it is dated November 12,
10 2004? 10:21:31
11 A. Yes.
12 Q. That is now just about two weeks
13 after the incident?
14 A. Yes.
15 Q. Why did you wait about two weeks 10:21:36
16 to get his statement?
17 A. I don't know why.
18 Q. Did you ask him why he didn't give
19 a statement the night of the incident?
20 A. I think he was -- I believe I did 10:21:47
21 ask him why he didn't approach one of the
22 three officers and, you know, I remember him
23 saying that he was dazed from the fight
24 itself. That Richie attempted to -- Rich
25 Bosetti, his brother, attempted to talk to the 10:22:03

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1 Hesse
2 three and none of them wanted to talk to him.
3 Q. Did you ask him why he didn't come
4 to the police station the next day to give a
5 statement? 10:22:15
6 A. Well, in his opinion I think he
7 felt he was being railroaded --
8 MR. CONNOLLY: That is not the
9 question.
10 A. So he didn't want to talk to 10:22:25
11 anybody, he left.
12 Q. He left. What do you mean by he
13 left?
14 A. I think he left the beach.
15 Q. As a retired 20 year veteran of 10:22:34
16 the New York City Police Department who was
17 involved in an altercation, was it appropriate
18 that he left the beach without giving a
19 statement?
20 MR. CONNOLLY: Objection. 10:22:48
21 MR. NOVIKOFF: Objection.
22 A. He felt it was, yes.
23 Q. I am not asking what he felt. I
24 am asking you whether you felt that a 20 year
25 New York City veteran police officer at the 10:22:55

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1 Hesse
2 time a current police officer in the Village
3 of Ocean Beach, do you think it was
4 appropriate for him to leave the island
5 without giving a statement? 10:23:08
6 MR. NOVIKOFF: Objection.
7 A. I felt it was inappropriate, and I
8 felt he should have come to either myself or
9 the chief.
10 Q. Did you ever write him up for not 10:23:13
11 doing?
12 MR. NOVIKOFF: Objection.
13 A. No.
14 Q. Did you ever discipline him for
15 not doing that? 10:23:20
16 MR. NOVIKOFF: Objection.
17 A. I did talk to him about it.
18 Q. When did you speak to him about
19 it?
20 A. I don't remember exactly. 10:23:25
21 Q. Was it before or after November
22 12, 2004?
23 A. I don't remember exactly, no.
24 Q. Did you memorialize the fact that
25 you spoke to him about that? 10:23:37

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1 Hesse
2 A. No.
3 Q. What was your reaction when you
4 heard that he had left the island without
5 giving a statement? 10:23:47
6 A. I don't know if I had a reaction.
7 I don't recall.
8 Q. Do you know whether he was
9 drinking that night?
10 A. I don't know. 10:23:58
11 Q. Did you ever ask him?
12 A. I may have, I don't know.
13 Q. And he took police action that
14 night?
15 MR. NOVIKOFF: Objection. 10:24:07
16 MR. CONNOLLY: Objection.
17 Q. Do you believe he took police
18 action that night?
19 A. In my opinion, yes.
20 Q. Was he the first officer at the 10:24:11
21 scene?
22 MR. NOVIKOFF: Objection.
23 A. He was already there.
24 Q. So how come he didn't make an
25 arrest that night; did you ever ask him? 10:24:23

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<p>1 Hesse</p> <p>2 A. I may have asked him, I don't</p> <p>3 recall specifically.</p> <p>4 Q. Do you recall what his response</p> <p>5 was? 10:24:31</p> <p>6 A. Not specifically, no.</p> <p>7 Q. Did it surprise you that he didn't</p> <p>8 make an arrest after what you now believe to</p> <p>9 be the truth?</p> <p>10 MR. NOVIKOFF: Objection. 10:24:45</p> <p>11 A. Was I surprised; I wouldn't say I</p> <p>12 was surprised.</p> <p>13 Q. Did you ever ask him why he left</p> <p>14 the ocean without giving a statement?</p> <p>15 MR. BAPTISTE: Why he left the 10:25:07</p> <p>16 bar or why he left --</p> <p>17 Q. The beach without giving a</p> <p>18 statement?</p> <p>19 A. I don't specifically remember.</p> <p>20 Q. Did you ever ask him why he left 10:25:13</p> <p>21 the bar without giving a statement?</p> <p>22 MR. NOVIKOFF: Objection. Asked</p> <p>23 and answered.</p> <p>24 A. I believe he was inside the bar</p> <p>25 and Rich Bosetti went out to talk to the three 10:25:23</p>	<p>1 Hesse</p> <p>2 A. I don't specifically remember.</p> <p>3 Q. Was it before or after Gary's?</p> <p>4 A. I don't know.</p> <p>5 Q. Did you ask him to provide a 10:26:23</p> <p>6 statement or did he come forward voluntarily</p> <p>7 to do it?</p> <p>8 A. I believe I asked him to write</p> <p>9 something up.</p> <p>10 Q. When did you ask him that? 10:26:29</p> <p>11 A. I don't specifically remember.</p> <p>12 Q. Do you recall approximately when</p> <p>13 it was?</p> <p>14 A. No. I don't.</p> <p>15 Q. Do you recall what month it was? 10:26:36</p> <p>16 A. It was probably in November.</p> <p>17 Q. Why would you think that?</p> <p>18 A. Well, the incident took place on</p> <p>19 the 31st, preceding month is November.</p> <p>20 MR. GOODSTADT: Would you mark 10:27:00</p> <p>21 this document, internal correspondence,</p> <p>22 December 10, 2004, as Hesse Exhibit 22,</p> <p>23 (Hesse Exhibit 22, internal</p> <p>24 correspondence, December 10, 2004,</p> <p>25 marked for identification, as of this 10:27:02</p>
Page 568	Page 570
<p>1 Hesse</p> <p>2 police officers, and they said they will take</p> <p>3 care of it, they will do whatever,</p> <p>4 specifically I don't recall.</p> <p>5 Frank -- I believe it was Frank 10:25:33</p> <p>6 Fiorillo had said to Rich specifically we are</p> <p>7 handling it. So Richie went back into the</p> <p>8 bar. So I don't know why they specifically</p> <p>9 didn't talk to them.</p> <p>10 Q. And by November 12th you had 10:25:44</p> <p>11 already reached a conclusion as to what</p> <p>12 happened; correct?</p> <p>13 A. Yes.</p> <p>14 Q. By that point in time had any</p> <p>15 other witness mentioned to you that Gary 10:25:56</p> <p>16 Bosetti used a pool cue?</p> <p>17 MR. CONNOLLY: Objection.</p> <p>18 MR. NOVIKOFF: Objection to the</p> <p>19 form.</p> <p>20 A. I don't believe any witness came 10:26:03</p> <p>21 forward and said anything about a pool cue.</p> <p>22 Q. Did you ever take a statement from</p> <p>23 Richard Bosetti?</p> <p>24 A. Yes.</p> <p>25 Q. When did you take that statement? 10:26:14</p>	<p>1 Hesse</p> <p>2 date.)</p> <p>3 Q. I placed in front of Mr. Hesse</p> <p>4 what has been marked as Hesse Exhibit 22, it</p> <p>5 is a multiple page exhibit bearing Bates 10:27:38</p> <p>6 numbers 3200 through 3204.</p> <p>7 Do you recognize the exhibit that</p> <p>8 has been marked as Hesse Exhibit 22?</p> <p>9 A. Yes.</p> <p>10 Q. What is this? 10:27:54</p> <p>11 A. Statement that I took from Rich</p> <p>12 Bosetti.</p> <p>13 Q. And the last three pages are, is</p> <p>14 that your handwriting?</p> <p>15 A. Yes, that is my handwriting. 10:28:03</p> <p>16 Q. How come Rich Bosetti didn't sign</p> <p>17 the statement, the last three page written</p> <p>18 statement?</p> <p>19 A. I don't recall.</p> <p>20 Q. Do you usually have a witness sign 10:28:11</p> <p>21 a statement that they give?</p> <p>22 A. Always, yes.</p> <p>23 Q. Do you know whether he actually</p> <p>24 signed the handwritten statement at any point?</p> <p>25 A. According to this no, I don't 10:28:22</p>

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1 Hesse
2 recall.
3 **Q. Who typed the first two pages?**
4 A. I think I went back and I typed it
5 up after I wrote it. 10:28:32
6 **Q. Why would you type it up?**
7 A. Just so it was easier to read, no
8 other reason.
9 **Q. You see the date, December 10,**
10 **2004?** 10:28:42
11 A. Yes.
12 **Q. Does that now refresh your**
13 **recollection as to when you took Rich**
14 **Bosetti's statement?**
15 A. Not specifically, no. 10:28:46
16 **Q. Any reason to believe it was not**
17 **December 10, 2004?**
18 A. No.
19 **Q. Why would you wait six weeks to**
20 **take a statement?** 10:28:55
21 MR. NOVIKOFF: Almost six weeks.
22 **Q. Approximately six weeks.**
23 MR. CONNOLLY: Objection to the
24 form. You can answer.
25 A. I don't specifically recall why. 10:29:03

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1 Hesse
2 **Q. Do you think that six week time**
3 **lapse could affect his ability to recall the**
4 **events that night?**
5 A. It could have. 10:29:14
6 **Q. Did you ask him whether he was**
7 **drinking that night?**
8 A. Not specifically, I don't
9 remember.
10 **Q. Do you know whether he was** 10:29:20
11 **drinking that night?**
12 A. I don't know.
13 **Q. Do you think it would have been**
14 **important to ask him?**
15 MR. CONNOLLY: Objection. 10:29:26
16 A. Sure.
17 **Q. Did you ask Rich Bosetti if he**
18 **tried to get any statements from any**
19 **eyewitnesses that night?**
20 A. I don't recall if I did. 10:29:48
21 **Q. Do you know how Rich Bosetti got**
22 **off the island that next morning?**
23 A. I don't recall.
24 **Q. Do you know how Gary Bosetti got**
25 **off the island on the morning of the 31st?** 10:30:02

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1 Hesse
2 A. I don't recall.
3 **Q. I believe you testified before**
4 **about asking the on duty officers that evening**
5 **to put together 42's; is that correct?** 10:30:17
6 MR. CONNOLLY: Objection. Do you
7 mean the officers who were on the scene?
8 **Q. Who were on duty that night?**
9 MR. CONNOLLY: We have not
10 established there were any other officers 10:30:28
11 on duty. I know you are making reference
12 to the three officers that went to the
13 scene.
14 MR. GOODSTADT: I will rephrase.
15 MR. NOVIKOFF: I believe this 10:30:35
16 witness testified today that he asked
17 Mr. Lamm and Mr. Fiorillo for 42's. I
18 don't believe he made any reference to a
19 42 for Mr. Snyder.
20 **Q. So did you ask Mr. Fiorillo to** 10:30:48
21 **provide a 42?**
22 A. Yes.
23 **Q. A 42 is what?**
24 A. Just a memo.
25 **Q. Did you ask Lamm to provide a 42?** 10:30:54

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1 Hesse
2 A. Yes.
3 **Q. Did you ask Snyder to provide a**
4 **42?**
5 A. At some point I did. 10:31:01
6 **Q. Do you recall when you asked**
7 **Snyder to provide a 42?**
8 A. I don't recall.
9 **Q. Is it possible that it was October**
10 **31st that you asked him to provide a 42?** 10:31:09
11 MR. NOVIKOFF: Objection.
12 A. I don't think so.
13 **Q. When was the first time that you**
14 **recall speaking to Snyder about the Halloween**
15 **incident?** 10:31:25
16 A. I don't recall.
17 **Q. Do you recall approximately how**
18 **many days after the event?**
19 A. No, I don't.
20 **Q. Do you recall when Snyder provided** 10:31:25
21 **his 42?**
22 A. I don't.
23 **Q. Do you recall how Snyder provided**
24 **his 42?**
25 A. I think he put it in writing. 10:31:37

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<p>1 Hesse</p> <p>2 Q. Do you recall how you received it?</p> <p>3 A. I don't know. I don't know if it</p> <p>4 was by E-mail or if he faxed it.</p> <p>5 Q. Do you recall whether -- was it 10:31:47</p> <p>6 handwritten or typed?</p> <p>7 A. My best recollection is it was</p> <p>8 typed.</p> <p>9 Q. Did you ever receive the 42 from</p> <p>10 Lamm? 10:31:58</p> <p>11 A. Yes.</p> <p>12 Q. Do you recall when that was</p> <p>13 received?</p> <p>14 A. I don't recall, no.</p> <p>15 Q. Did you ever receive a 42 from Mr. 10:32:02</p> <p>16 Fiorillo?</p> <p>17 A. Yes.</p> <p>18 Q. Do you recall how that was</p> <p>19 received by you?</p> <p>20 A. Like I stated earlier I believe he 10:32:10</p> <p>21 handed me a handwritten 42.</p> <p>22 Q. Why did you ask them for 42's?</p> <p>23 A. I just wanted to see what their</p> <p>24 recollection of the night was.</p> <p>25 Q. I believe you testified that prior 10:32:31</p>	<p>1 Hesse</p> <p>2 A. I don't recall specifically, but</p> <p>3 that came up a couple of times. I don't know</p> <p>4 when specifically though.</p> <p>5 Q. Who brought it up? 10:33:39</p> <p>6 A. I don't remember specifically.</p> <p>7 Q. Do you remember when you learned</p> <p>8 of that allegation?</p> <p>9 A. No, I think it was a rumor that</p> <p>10 was just circulating. 10:33:49</p> <p>11 Q. Did you learn that rumor during</p> <p>12 the five days in which you reached your</p> <p>13 conclusion?</p> <p>14 MR. CONNOLLY: Objection.</p> <p>15 A. I don't recall. 10:33:57</p> <p>16 MR. GOODSTADT: Would you mark</p> <p>17 this document as Hesse Exhibit 23,</p> <p>18 typewritten document dated 11/5/04 to</p> <p>19 George Hesse.</p> <p>20 (Hesse Exhibit 23, typewritten 10:34:24</p> <p>21 document dated 11/5/04 to George Hesse,</p> <p>22 marked for identification, as of this</p> <p>23 date.)</p> <p>24 Q. I place in front of Mr. Hesse what</p> <p>25 has been marked as Hesse Exhibit 23, a 10:35:01</p>
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<p>1 Hesse</p> <p>2 to asking for the 42 you discussed the</p> <p>3 incident with Mr. Fiorillo and Mr. Lamm on the</p> <p>4 telephone; is that correct?</p> <p>5 A. Yes. 10:32:43</p> <p>6 Q. Do you recall whether you spoke</p> <p>7 with Mr. Snyder at all about Halloween before</p> <p>8 getting his 42?</p> <p>9 A. I must have if I asked for his 42.</p> <p>10 I don't specifically -- specifically I don't 10:32:57</p> <p>11 recall.</p> <p>12 Q. Did he tell you that Richard</p> <p>13 Bosetti refused to answer questions that</p> <p>14 evening?</p> <p>15 A. I don't recall. 10:33:06</p> <p>16 Q. Did he tell you that the people</p> <p>17 who came to the station that night, Schalik,</p> <p>18 Tesori or Van Koot claimed that they thought</p> <p>19 the incident was going to be covered up?</p> <p>20 MR. NOVIKOFF: Objection. 10:33:28</p> <p>21 MR. CONNOLLY: Objection as to</p> <p>22 timeframe.</p> <p>23 Q. At any point in time?</p> <p>24 MR. NOVIKOFF: My objection went</p> <p>25 beyond that. 10:33:34</p>	<p>1 Hesse</p> <p>2 three-page exhibit bearing Bates numbers</p> <p>3 3196, 3197 and 3198.</p> <p>4 Mr. Hesse, do you recognize the</p> <p>5 document marked as Hesse Exhibit 23? 10:35:13</p> <p>6 A. Yes.</p> <p>7 Q. What is this document?</p> <p>8 A. This is the statement or 42 from</p> <p>9 Thomas Snyder to me.</p> <p>10 Q. Dated 11/5/04? 10:35:26</p> <p>11 A. Yes.</p> <p>12 Q. Do you recall if you actually</p> <p>13 received it on 11/5/04?</p> <p>14 A. The fax is showing it is</p> <p>15 11/6/2004. 10:35:42</p> <p>16 Q. Do you recall if that is the date</p> <p>17 that you received it?</p> <p>18 A. I don't recall, no.</p> <p>19 Q. Does this -- did you speak with</p> <p>20 Snyder before he provided the 42? 10:35:50</p> <p>21 A. I don't recall specifically. I</p> <p>22 believe I did though.</p> <p>23 Q. You had asked him to provide it,</p> <p>24 right?</p> <p>25 A. Yes. I already stated that. 10:36:01</p>

<p style="text-align: right;">Page 579</p> <p>1 Hesse</p> <p>2 MR. NOVIKOFF: Objection. Without</p> <p>3 telling him what to testify to, I would</p> <p>4 presume that he has testified that he</p> <p>5 asked for a 42 of Snyder, that he had to 10:36:08</p> <p>6 have at least had a conversation as to</p> <p>7 that.</p> <p>8 MR. CONNOLLY: I believe he</p> <p>9 actually testified to that.</p> <p>10 MR. GOODSTADT: I believe he also 10:36:16</p> <p>11 testified that he didn't speak to Snyder</p> <p>12 during the five days. I wanted to</p> <p>13 refresh his recollection. I want to get</p> <p>14 a time line.</p> <p>15 Q. Does this refresh your 10:36:24</p> <p>16 recollection as to whether you spoke with Mr.</p> <p>17 Snyder during the five day interval in which</p> <p>18 you reached your conclusions?</p> <p>19 A. No.</p> <p>20 MR. NOVIKOFF: Also let the record 10:36:35</p> <p>21 reflect that I think his testimony wasn't</p> <p>22 five days, I think he believes it was</p> <p>23 around five days.</p> <p>24 Q. Does this refresh your</p> <p>25 recollection -- strike that. 10:36:47</p>	<p style="text-align: right;">Page 581</p> <p>1 Hesse</p> <p>2 MR. NOVIKOFF: Objection.</p> <p>3 MR. CONNOLLY: Objection.</p> <p>4 A. I had no reason to believe it was</p> <p>5 not. 10:37:49</p> <p>6 Q. Did you believe that Mr. Snyder</p> <p>7 was not telling the truth in his statement?</p> <p>8 MR. CONNOLLY: Objection.</p> <p>9 MR. NOVIKOFF: Objection.</p> <p>10 A. No. 10:37:59</p> <p>11 Q. Did you believe that Mr. Snyder</p> <p>12 was corrupt based on this statement?</p> <p>13 A. No.</p> <p>14 Q. Did you speak to him at all about</p> <p>15 his statement? 10:38:07</p> <p>16 A. I don't specifically recall.</p> <p>17 Q. Do you recall telling Mr. Snyder</p> <p>18 that there were discrepancies between what he</p> <p>19 and Richard Bosetti had stated?</p> <p>20 A. I don't specifically recall. 10:38:16</p> <p>21 Q. So you don't recall one way or the</p> <p>22 other?</p> <p>23 A. No.</p> <p>24 MR. NOVIKOFF: When did Bosetti</p> <p>25 provide this statement; object to that 10:38:34</p>
<p style="text-align: right;">Page 580</p> <p>1 Hesse</p> <p>2 Sitting here now do you recall</p> <p>3 anything that was discussed between you and</p> <p>4 Mr. Snyder other than for asking him to</p> <p>5 provide a 42? 10:36:57</p> <p>6 A. I don't recall.</p> <p>7 Q. Do you recall telling him that Joe</p> <p>8 Loeffler wanted you to turn around the</p> <p>9 investigation?</p> <p>10 A. No. 10:37:05</p> <p>11 Q. Do you recall telling Tom Snyder</p> <p>12 that you were going to wrap up the</p> <p>13 investigation on the day that he faxed in his</p> <p>14 42?</p> <p>15 MR. NOVIKOFF: Objection. 10:37:17</p> <p>16 A. I don't recall.</p> <p>17 Q. What was your reaction when you</p> <p>18 received Mr. Snyder's statement?</p> <p>19 MR. CONNOLLY: Objection.</p> <p>20 MR. NOVIKOFF: If any. 10:37:34</p> <p>21 Q. If any?</p> <p>22 A. I don't recall having any</p> <p>23 reaction.</p> <p>24 Q. Did you think his statements was</p> <p>25 accurate? 10:37:43</p>	<p style="text-align: right;">Page 582</p> <p>1 Hesse</p> <p>2 last question because I think Bosetti</p> <p>3 provided it after this. Foundation</p> <p>4 objection.</p> <p>5 Q. Do you ever recall telling Mr. 10:38:37</p> <p>6 Snyder that there were discrepancies between</p> <p>7 what his statement said and what Mr. Bosetti</p> <p>8 claimed?</p> <p>9 MR. CONNOLLY: At any time?</p> <p>10 Q. Yes. 10:38:47</p> <p>11 A. I specifically don't recall.</p> <p>12 Q. You don't recall one way or the</p> <p>13 other?</p> <p>14 A. No.</p> <p>15 Q. Do you recall speaking to Ed 10:38:51</p> <p>16 Carter about Tommy Snyder's statement?</p> <p>17 A. No.</p> <p>18 Q. You don't recall one way or the</p> <p>19 other?</p> <p>20 A. No. 10:38:59</p> <p>21 Q. You don't recall telling</p> <p>22 Mr. Carter that Tommy Snyder needed to protect</p> <p>23 the Bosetti's rather than the victims?</p> <p>24 A. No.</p> <p>25 Q. You don't recall telling Mr. Frank 10:39:11</p>

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<p>1 Hesse</p> <p>2 Fiorillo that Tommy Snyder needed to protect</p> <p>3 the Bosetti's rather than the victims?</p> <p>4 MR. NOVIKOFF: Objection.</p> <p>5 A. No. 10:39:27</p> <p>6 Q. Isn't it true that you told</p> <p>7 Mr. Carter that Snyder's report made you sick?</p> <p>8 A. No.</p> <p>9 Q. Isn't it true that -- strike that.</p> <p>10 Did Frank Fiorillo -- how did Frank Fiorillo 10:39:39</p> <p>11 provide his statement to you?</p> <p>12 A. For the third time he handed it to</p> <p>13 me.</p> <p>14 Q. Where was that?</p> <p>15 A. It was at the checkpoint at the 10:39:48</p> <p>16 lighthouse.</p> <p>17 Q. Isn't it true that when he handed</p> <p>18 it to you that you told Mr. Fiorillo that</p> <p>19 Tommy Snyder's report made you sick?</p> <p>20 A. No. 10:40:00</p> <p>21 Q. Isn't it true that you told him</p> <p>22 that Tommy Snyder's 42 was a piece of shit?</p> <p>23 A. No.</p> <p>24 MR. NOVIKOFF: Objection.</p> <p>25 Q. Isn't it true that you told them 10:40:07</p>	<p>1 Hesse</p> <p>2 MR. BAPTISTE: Objection.</p> <p>3 MR. CONNOLLY: Objection.</p> <p>4 MR. NOVIKOFF: Just read back the</p> <p>5 question. I want to see if I have a 10:41:20</p> <p>6 basis to object.</p> <p>7 (Record read.)</p> <p>8 MR. NOVIKOFF: Actually that is</p> <p>9 one of your few good questions, I have no</p> <p>10 objection. 10:41:47</p> <p>11 A. No.</p> <p>12 Q. Do you know whether Tom Snyder</p> <p>13 ever spoke with anyone at the District</p> <p>14 Attorney's office about the Halloween</p> <p>15 incident? 10:41:59</p> <p>16 MR. CONNOLLY: At any time?</p> <p>17 Q. At any time?</p> <p>18 MR. CONNOLLY: Does he know?</p> <p>19 Q. Do you know whether Tom Snyder</p> <p>20 ever spoke to anybody at the District 10:42:05</p> <p>21 Attorney's office about the Halloween</p> <p>22 incident?</p> <p>23 MR. CONNOLLY: Does he have</p> <p>24 personal knowledge?</p> <p>25 MR. GOODSTADT: Did he ever learn 10:42:13</p>
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<p>1 Hesse</p> <p>2 that -- that you told Mr. Carter and Mr.</p> <p>3 Snyder that you thought that Tommy Snyder had</p> <p>4 it in for the Bosetti's?</p> <p>5 MR. CONNOLLY: Objection. Them 10:40:20</p> <p>6 being Mr. Carter?</p> <p>7 Q. Yes. That Mr. Hesse told</p> <p>8 Mr. Carter and Mr. Snyder -- strike that.</p> <p>9 Isn't it true that you told Mr.</p> <p>10 Fiorillo and Mr. Carter that Tommy Snyder had 10:40:32</p> <p>11 it in for the Bosetti's?</p> <p>12 A. No.</p> <p>13 Q. Did you believe that Tommy Snyder</p> <p>14 had it in for the Bosetti's?</p> <p>15 A. No. 10:40:42</p> <p>16 Q. Did the Bosetti's and Mr. Snyder</p> <p>17 get along prior to the Halloween incident?</p> <p>18 MR. CONNOLLY: Objection.</p> <p>19 A. I don't think specifically, no,</p> <p>20 they didn't get along. 10:40:55</p> <p>21 Q. Had you heard a rumor prior to the</p> <p>22 Halloween incident that Tommy Snyder is the</p> <p>23 one who alerted Civil Service the summer</p> <p>24 before to the fact that there were uncertified</p> <p>25 officers at Ocean Beach? 10:41:07</p>	<p>1 Hesse</p> <p>2 from anyone --</p> <p>3 MR. CONNOLLY: Different question.</p> <p>4 MR. BAPTISTE: Objection.</p> <p>5 A. Ask the question again. 10:42:19</p> <p>6 Q. Had you ever heard that Tom Snyder</p> <p>7 spoke to anyone at the District Attorney's</p> <p>8 office about the Halloween incident?</p> <p>9 A. I don't think I specifically</p> <p>10 heard, I think I read it somewhere. 10:42:30</p> <p>11 Q. Where did you read it?</p> <p>12 A. In one of their depositions.</p> <p>13 Q. What did you think of Tommy</p> <p>14 Snyder's statement?</p> <p>15 A. Which statement? 10:42:56</p> <p>16 Q. The 42.</p> <p>17 A. I don't know if I really thought</p> <p>18 anything of it other than this is his</p> <p>19 recollection of what happened that night.</p> <p>20 Q. Did you think it was a complete 42 10:43:10</p> <p>21 or a complete statement of what happened that</p> <p>22 night?</p> <p>23 MR. NOVIKOFF: Objection.</p> <p>24 MR. CONNOLLY: Objection.</p> <p>25 A. In his opinion. 10:43:17</p>

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<p>1 Hesse</p> <p>2 Q. How about in your opinion, did you</p> <p>3 think that was a complete 42?</p> <p>4 MR. CONNOLLY: His opinion when?</p> <p>5 Q. His opinion when you read it? 10:43:25</p> <p>6 A. I think it was complete to the</p> <p>7 best of Mr. Snyder's knowledge of what</p> <p>8 happened that night.</p> <p>9 Q. Did you doubt any of the</p> <p>10 credibility of any of the statements in the 42 10:43:39</p> <p>11 that Snyder provided?</p> <p>12 MR. NOVIKOFF: Objection.</p> <p>13 MR. CONNOLLY: Again you are</p> <p>14 talking when he first read it?</p> <p>15 MR. GOODSTADT: Yes. 10:43:48</p> <p>16 A. I don't specifically remember.</p> <p>17 Q. How about sitting here today do</p> <p>18 you doubt the credibility of any of the</p> <p>19 statements made in the statement?</p> <p>20 A. I would have to read it entirely 10:43:59</p> <p>21 again.</p> <p>22 MR. CONNOLLY: Objection. You</p> <p>23 want him to do so?</p> <p>24 MR. GOODSTADT: Maybe later.</p> <p>25 Q. I believe you testified that 10:44:12</p>	<p>1 Hesse</p> <p>2 Q. What is this?</p> <p>3 A. This is Frank Fiorillo's</p> <p>4 statement.</p> <p>5 Q. The handwritten statement on page 11:06:44</p> <p>6 3195, is that the statement that he handed to</p> <p>7 you at the checkpoint?</p> <p>8 A. I believe it is.</p> <p>9 Q. Who typed up the first page of</p> <p>10 this exhibit? 11:06:55</p> <p>11 A. I did.</p> <p>12 Q. How come?</p> <p>13 A. Because the piece of paper that he</p> <p>14 had written it on, it was like crammed on, so</p> <p>15 I thought to be able to read it a little 11:07:03</p> <p>16 better I would read it and type it out in case</p> <p>17 I had to refer to it for anything.</p> <p>18 Q. Did you ever speak to Mr. Fiorillo</p> <p>19 about his statement?</p> <p>20 A. Specifically I don't recall. 11:07:12</p> <p>21 MR. NOVIKOFF: You mean after --</p> <p>22 Q. After he gave it to him.</p> <p>23 MR. NOVIKOFF: Right.</p> <p>24 Q. Isn't it true that you told him</p> <p>25 that he needed to file a new statement to 11:07:28</p>
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<p>1 Hesse</p> <p>2 Fiorillo handed you a statement, correct, a</p> <p>3 42?</p> <p>4 A. From what I recall, yes.</p> <p>5 Q. Do you recall what date that was? 10:44:21</p> <p>6 A. No.</p> <p>7 MR. GOODSTADT: Would you mark</p> <p>8 this document as Hesse Exhibit 24,</p> <p>9 internal correspondence, November 7,</p> <p>10 2004. 10:44:35</p> <p>11 (Hesse Exhibit 24, internal</p> <p>12 correspondence, November 7, 2004,</p> <p>13 marked for identification, as of this</p> <p>14 date.)</p> <p>15 THE VIDEOGRAPHER: The time is 10:44:56</p> <p>16 10:46, we are off the record.</p> <p>17 (Recess taken.)</p> <p>18 THE VIDEOGRAPHER: The time is</p> <p>19 11:08, we are on the record.</p> <p>20 Q. Mr. Hesse, I placed in front of 11:06:25</p> <p>21 you what is marked Exhibit 24, a multiple page</p> <p>22 exhibit bearing Bates 3194 and 3195. Do you</p> <p>23 recognize the document marked as Hesse Exhibit</p> <p>24 24?</p> <p>25 A. Yes. 11:06:38</p>	<p>1 Hesse</p> <p>2 protect the Bosetti's?</p> <p>3 A. Absolutely not.</p> <p>4 MR. CONNOLLY: Objection.</p> <p>5 I withdraw the objection. 11:07:36</p> <p>6 A. Absolutely not.</p> <p>7 Q. And you don't recall one way or</p> <p>8 the other whether you actually ever spoke to</p> <p>9 Mr. Fiorillo about his statement; is that</p> <p>10 correct? 11:07:49</p> <p>11 A. Correct.</p> <p>12 Q. So had you spoken to him, if you</p> <p>13 had spoken to him you wouldn't recall anything</p> <p>14 that was stated during that conversation; is</p> <p>15 that correct? 11:07:56</p> <p>16 MR. CONNOLLY: Objection.</p> <p>17 MR. NOVIKOFF: Objection.</p> <p>18 A. You asked me a specific question</p> <p>19 of the statement I possibly made, and there is</p> <p>20 no way I asked him to rewrite this. 11:08:01</p> <p>21 Q. That wasn't my question now. The</p> <p>22 question now was had you in fact spoken with</p> <p>23 him, sitting here today you don't recall</p> <p>24 anything that was discussed between the two of</p> <p>25 you? 11:08:13</p>

<p style="text-align: right;">Page 591</p> <p>1 Hesse</p> <p>2 A. I don't recall specifically when,</p> <p>3 where, why or what. I remember receiving this</p> <p>4 and reading it.</p> <p>5 Q. I am not talking about you 11:08:22</p> <p>6 receiving this and reading it. I am talking</p> <p>7 about any conversations you had with Mr.</p> <p>8 Fiorillo about his statement after you read it</p> <p>9 and received it?</p> <p>10 A. Specifically no. 11:08:29</p> <p>11 Q. Did you ever show Mr. Fiorillo's</p> <p>12 statement to Mr. Snyder?</p> <p>13 A. I don't recall if I did.</p> <p>14 Q. You don't recall one way or the</p> <p>15 other? 11:08:42</p> <p>16 A. No.</p> <p>17 Q. Do you recall telling Mr. Snyder</p> <p>18 that it was similar to the piece of shit that</p> <p>19 he had filed?</p> <p>20 MR. NOVIKOFF: Objection to the 11:08:50</p> <p>21 form.</p> <p>22 A. No.</p> <p>23 MR. NOVIKOFF: Is the question</p> <p>24 does he recall stating that or did he say</p> <p>25 that? 11:08:57</p>	<p style="text-align: right;">Page 593</p> <p>1 Hesse</p> <p>2 correct?</p> <p>3 A. I don't recall having a</p> <p>4 conversation with Mr. Snyder, no.</p> <p>5 Q. Did you tell Mr. Fiorillo that 11:09:26</p> <p>6 Cherry's investigation actually described what</p> <p>7 happened that night?</p> <p>8 A. Specifically no.</p> <p>9 Q. Did you tell Mr. Snyder that</p> <p>10 Cherry's investigation actually described what 11:09:44</p> <p>11 happened that night?</p> <p>12 A. Specifically no.</p> <p>13 Q. Specifically you don't recall or</p> <p>14 specifically you didn't say that?</p> <p>15 A. I don't specifically remember 11:09:51</p> <p>16 saying it that way.</p> <p>17 Q. Do you recall saying it generally</p> <p>18 in sum and substance that way?</p> <p>19 A. At some point I sat each one of</p> <p>20 them down and had a conversation about the 11:10:04</p> <p>21 investigation, yes.</p> <p>22 Q. When did you have that sit down</p> <p>23 with Mr. Fiorillo?</p> <p>24 A. I believe it was after Mr. Schalik</p> <p>25 and Mr. Van Koot had already been prosecuted. 11:10:13</p>
<p style="text-align: right;">Page 592</p> <p>1 Hesse</p> <p>2 Q. The question is do you recall</p> <p>3 stating that?</p> <p>4 A. No.</p> <p>5 MR. NOVIKOFF: Objection to form 11:08:59</p> <p>6 of the question.</p> <p>7 Q. Did you state that to him?</p> <p>8 A. No.</p> <p>9 Q. Do you recall ever speaking with</p> <p>10 Mr. Snyder about Mr. Fiorillo's statement? 11:09:03</p> <p>11 A. I don't recall.</p> <p>12 Q. You don't recall one way or the</p> <p>13 other?</p> <p>14 A. No.</p> <p>15 Q. And sitting here today if that 11:09:11</p> <p>16 conversation actually occurred you don't</p> <p>17 recall any of the details of what was said;</p> <p>18 correct?</p> <p>19 MR. NOVIKOFF: Objection.</p> <p>20 MR. CONNOLLY: Objection. 11:09:18</p> <p>21 A. Specifically no.</p> <p>22 Q. Or generally?</p> <p>23 MR. NOVIKOFF: Objection.</p> <p>24 A. Specifically no.</p> <p>25 Q. Generally you don't recall either; 11:09:21</p>	<p style="text-align: right;">Page 594</p> <p>1 Hesse</p> <p>2 Q. What was the substance of that</p> <p>3 conversation?</p> <p>4 A. I told him that I thought it was a</p> <p>5 good idea that he reviewed the entire 11:10:23</p> <p>6 investigation package from start to finish to</p> <p>7 show him what had happened.</p> <p>8 Q. And do you recall anything else</p> <p>9 that was stated in that conversation?</p> <p>10 A. Not specifically. 11:10:37</p> <p>11 Q. How about generally?</p> <p>12 A. I believe Mr. Fiorillo sat down</p> <p>13 and actually enjoyed reading the entire</p> <p>14 arrest.</p> <p>15 Q. What made you believe that? 11:10:48</p> <p>16 A. He sat there and he read the whole</p> <p>17 thing and he was shaking his head, yes, yes,</p> <p>18 yes, yes, and finished it and said that it was</p> <p>19 good.</p> <p>20 Q. Where was that conversation? 11:11:00</p> <p>21 A. In the police station.</p> <p>22 Q. When?</p> <p>23 A. I don't remember the date.</p> <p>24 Q. Who else was there?</p> <p>25 A. I think Mr. Cherry was there. 11:11:07</p>

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1 Hesse

2 **Q. Do you recall how long after the**

3 **plea was done in connection with Mr. Schalik**

4 **or Mr. Van Koot's arrest?**

5 A. It might have been the following 11:11:23

6 summer or season.

7 **Q. So you think it was the summer of**

8 **'05?**

9 A. Possible, yes.

10 **Q. Did you have a sit down with 11:11:32**

11 **Mr. Lamm?**

12 A. Yes.

13 **Q. When did you have that sit down?**

14 A. Probably around the same time.

15 **Q. What was the sum and substance of 11:11:39**

16 **that conversation you had with Mr. Lamm?**

17 A. He chose not to read it.

18 **Q. Do you recall what you said to him**

19 **in sum and substance?**

20 A. I told him this is what the 11:11:46

21 investigation produced, that he should read

22 it.

23 **Q. Anything else that you recall in**

24 **that conversation?**

25 A. Not specifically. 11:11:54

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1 Hesse

2 **Q. How about generally?**

3 A. No. He just seemed very angry.

4 **Q. What do you mean by that?**

5 A. He just seemed like it was a joke. 11:12:00

6 **Q. What did he do that led you to**

7 **believe that he was angry?**

8 A. He took it and he looked at it

9 briefly and he said I am not reading that.

10 **Q. Did you respond to him when he 11:12:13**

11 **said that?**

12 A. Specifically I don't remember what

13 I said.

14 **Q. How about generally?**

15 A. Even generally I don't remember 11:12:20

16 anything else.

17 **Q. What made you believe or led you**

18 **to believe that he thought it was a joke?**

19 A. That is exactly what he said.

20 **Q. He said it is a joke? 11:12:28**

21 A. Yes, he said it is a joke.

22 **Q. What did you understand him to**

23 **mean when he said this was a joke?**

24 MR. CONNOLLY: Objection.

25 A. I specifically remember him saying 11:12:42

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1 Hesse

2 that we are going to sweep this one under the

3 rug too.

4 **Q. When did he say that?**

5 A. During this little conversation 11:12:51

6 that we had when I asked him to read through

7 the investigative pack.

8 **Q. Do you know what he meant by that**

9 **when he said we are going to sweep this one**

10 **under the rug too? 11:12:49**

11 A. I think he felt that there was a

12 cover up.

13 **Q. So he was claiming that there was**

14 **a cover up at that time?**

15 MR. CONNOLLY: Objection. 11:13:08

16 A. There were rumors that that is --

17 that he especially suspected.

18 **Q. I am not talking about rumors, I**

19 **am talking about what he said to you right**

20 **now? 11:13:15**

21 A. Well he said that we were going to

22 sweep this under the rug.

23 **Q. That led you to believe that he**

24 **was claiming that it was being covered up?**

25 A. Yes. 11:13:22

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1 Hesse

2 **Q. How about Mr. Snyder, did you ever**

3 **have a sit down with Mr. Snyder?**

4 A. At some point I did, yes.

5 **Q. When was that? 11:13:29**

6 A. I don't remember the specific

7 date.

8 **Q. When was the sit down with Lamm?**

9 A. It was around the same time I did

10 with Mr. Fiorillo. I think it was early in 11:13:37

11 the season of 2005.

12 **Q. Now, when was the sit down with**

13 **Mr. Snyder?**

14 A. It was later, much later. I don't

15 remember the date specifically. But I thought 11:13:53

16 it would be a good idea that he come in with

17 both Bosetti brothers and have a sit down and

18 try to hash out some of this.

19 **Q. Was that after Mr. Snyder was let**

20 **go? 11:14:20**

21 A. I think it was just before.

22 **Q. Just before he was let go?**

23 A. Yes.

24 MR. NOVIKOFF: When you say let

25 go, we have the same agreement -- 11:14:38

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<p>1 Hesse</p> <p>2 MR. GOODSTADT: We have the same</p> <p>3 agreement. Hopefully we will have time</p> <p>4 to go through when Mr. Hesse said --</p> <p>5 MR. NOVIKOFF: Yes. 11:14:53</p> <p>6 MR. GOODSTADT: Would you mark</p> <p>7 this document as Hesse Exhibit 25, Ocean</p> <p>8 Beach Police Department, document dated</p> <p>9 11/5/2004.</p> <p>10 (Hesse Exhibit 25, Ocean Beach 11:15:02</p> <p>11 Police Department, document dated</p> <p>12 11/5/2004, marked for identification,</p> <p>13 as of this date.)</p> <p>14 Q. Do you recall when you received</p> <p>15 Mr. Lamm's 42? 11:15:41</p> <p>16 A. I don't.</p> <p>17 Q. Why did you ask him to put this on</p> <p>18 a 42?</p> <p>19 A. I just wanted him to write it down</p> <p>20 and just give me an idea of what they thought 11:15:48</p> <p>21 happened.</p> <p>22 Q. Is it standard to have a report of</p> <p>23 an investigation done on a 42?</p> <p>24 A. They could have wrote it on a 42,</p> <p>25 they could have wrote it on a blank piece of 11:16:04</p>	<p>1 Hesse</p> <p>2 Q. That beach cop 03, that is your</p> <p>3 E-mail address?</p> <p>4 A. Yes.</p> <p>5 Q. Do you recall it coming in around 11:16:56</p> <p>6 November 5, 2004?</p> <p>7 A. I guess that is the date that I</p> <p>8 received it, or he sent it, I am not sure.</p> <p>9 Q. What was your reaction when you</p> <p>10 read Mr. Lamm's statement, if any? 11:17:09</p> <p>11 A. I don't remember having a</p> <p>12 reaction.</p> <p>13 Q. Did you ever speak with Mr. Lamm</p> <p>14 about his statement after you received it?</p> <p>15 A. I don't specifically remember. 11:17:18</p> <p>16 Q. You don't recall one way or the</p> <p>17 other?</p> <p>18 A. No.</p> <p>19 Q. So if you had that conversation</p> <p>20 with him, sitting here today you don't recall 11:17:26</p> <p>21 anything that was stated?</p> <p>22 A. Not specifically about his</p> <p>23 statement, no.</p> <p>24 Q. How about generally?</p> <p>25 A. I don't know. 11:17:32</p>
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<p>1 Hesse</p> <p>2 paper. I just wanted to know what they</p> <p>3 thought happened.</p> <p>4 Q. Do you recall when you received</p> <p>5 Mr. Lamm's statement? 11:16:11</p> <p>6 A. I don't.</p> <p>7 Q. Was it before or after you</p> <p>8 received Fiorillo's?</p> <p>9 A. I don't recall.</p> <p>10 Q. How about was it before or after 11:16:15</p> <p>11 you received Snyder's?</p> <p>12 A. I don't recall.</p> <p>13 Q. Do you recall how you received it?</p> <p>14 A. It might have been through E-mail</p> <p>15 or fax, I am not sure. 11:16:23</p> <p>16 Q. I place in front of Mr. Hesse what</p> <p>17 was marked as Hesse Exhibit 25, it is a</p> <p>18 two-page exhibit bearing Bates 3192 and 3193.</p> <p>19 Do you recognize the document</p> <p>20 marked as Hesse Exhibit 25? 11:16:39</p> <p>21 A. Yes.</p> <p>22 Q. What is this?</p> <p>23 A. This is Mr. Lamm's statement.</p> <p>24 Q. It came in by E-mail?</p> <p>25 A. Yes. 11:16:52</p>	<p>1 Hesse</p> <p>2 Q. What did you think of Mr. Lamm's</p> <p>3 statement when you received it?</p> <p>4 MR. CONNOLLY: In what regard?</p> <p>5 Q. In any regard? 11:17:51</p> <p>6 A. Repeat that.</p> <p>7 Q. What did you think of his</p> <p>8 statement when you received it?</p> <p>9 MR. NOVIKOFF: Objection.</p> <p>10 A. I took it for what it was worth. 11:17:58</p> <p>11 I read it and added it to the pile of papers</p> <p>12 that was part of the investigation.</p> <p>13 Q. What do you mean for what it was</p> <p>14 worth?</p> <p>15 A. This is what his account was of 11:18:10</p> <p>16 what happened that night.</p> <p>17 Q. Did you think it was worth</p> <p>18 anything?</p> <p>19 A. I don't recall. I would have to</p> <p>20 read it again. 11:18:16</p> <p>21 Q. Sitting here today you don't</p> <p>22 recall whether at that time you thought it was</p> <p>23 worth anything?</p> <p>24 A. I specifically don't remember.</p> <p>25 Q. I believe you testified that at 11:18:23</p>

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<p>1 Hesse</p> <p>2 some point around five days of investigating</p> <p>3 you reached a conclusion as to what happened;</p> <p>4 is that correct?</p> <p>5 MR. CONNOLLY: Objection. 11:18:32</p> <p>6 A. I had an idea of what was going</p> <p>7 on.</p> <p>8 Q. Did you prepare any report?</p> <p>9 A. At some point I think I did</p> <p>10 another field report. 11:18:42</p> <p>11 Q. When did you do that?</p> <p>12 A. I don't specifically remember the</p> <p>13 date.</p> <p>14 Q. Was it after you reached your</p> <p>15 conclusion? 11:18:54</p> <p>16 A. I don't recall.</p> <p>17 Q. Why would you do another field</p> <p>18 report?</p> <p>19 A. Just to add to the investigation.</p> <p>20 Q. Just so we are clear, the 11:19:01</p> <p>21 additional field report that you did is</p> <p>22 something different than what has been marked</p> <p>23 as -- what number was the field report?</p> <p>24 A. The original one?</p> <p>25 Q. Yes, the one that we marked today. 11:19:19</p>	<p>1 Hesse</p> <p>2 A. Yes.</p> <p>3 Q. So other than for the -- well,</p> <p>4 strike that.</p> <p>5 This field report doesn't reflect 11:21:04</p> <p>6 the conclusions of your investigation, does</p> <p>7 it?</p> <p>8 A. You mean our findings?</p> <p>9 Q. Yes.</p> <p>10 A. No. 11:21:17</p> <p>11 Q. So when I ask you if you prepared</p> <p>12 a report, I was referring to -- maybe you</p> <p>13 misunderstood or I didn't ask the question</p> <p>14 clearly. Did you prepare a report that set</p> <p>15 forth your findings or your conclusions? 11:21:29</p> <p>16 A. No.</p> <p>17 Q. How come?</p> <p>18 A. I don't specifically know why we</p> <p>19 had to do that.</p> <p>20 Q. I am asking why you didn't? 11:21:39</p> <p>21 MR. CONNOLLY: Objection.</p> <p>22 A. I don't think it was what we</p> <p>23 normally did.</p> <p>24 Q. Again just so I am clear for the</p> <p>25 record, when you said another field report, 11:21:52</p>
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<p>1 Hesse</p> <p>2 A. It was number 18.</p> <p>3 Q. Just so it is clear for the</p> <p>4 record, you did a field report that was</p> <p>5 different than the one that has been marked as 11:19:35</p> <p>6 Hesse Exhibit 18?</p> <p>7 A. Yes, it was a separate field</p> <p>8 report.</p> <p>9 Q. Do you know where that field</p> <p>10 report is kept? 11:19:53</p> <p>11 A. What do you mean where it is kept?</p> <p>12 Q. Where it is stored?</p> <p>13 A. It is stored as an electronic</p> <p>14 document in the computer.</p> <p>15 MR. GOODSTADT: Would you mark as 11:20:14</p> <p>16 Hesse Exhibit 26, incident report,</p> <p>17 12/11/2004.</p> <p>18 (Hesse Exhibit 26, incident</p> <p>19 report, 12/11/2004, marked for</p> <p>20 identification, as of this date.) 11:20:46</p> <p>21 Q. I placed in front of Mr. Hesse</p> <p>22 what is marked as Hesse Exhibit 26, one-page</p> <p>23 exhibit bearing Bates 3150. Mr. Hesse, is</p> <p>24 this the field report that you are referring</p> <p>25 to? 11:20:58</p>	<p>1 Hesse</p> <p>2 you are referring to Hesse Exhibit 26 and not</p> <p>3 some other document?</p> <p>4 A. That is correct.</p> <p>5 Q. Now, other than for the witness 11:21:57</p> <p>6 statements, the 42's that we went over, the</p> <p>7 photos, the statements that were taken that</p> <p>8 night from Schalik, to Tesori and Van Koot,</p> <p>9 was there anything else that was placed into</p> <p>10 the Halloween file? 11:22:17</p> <p>11 MR. CONNOLLY: Objection.</p> <p>12 A. Not that I specifically know.</p> <p>13 Q. Isn't it true that you told Lamm</p> <p>14 that what was in his statement wasn't what</p> <p>15 happened? 11:22:40</p> <p>16 MR. CONNOLLY: Objection.</p> <p>17 A. I don't recall that.</p> <p>18 Q. Isn't it true that you asked</p> <p>19 Mr. Lamm to amend his statement?</p> <p>20 A. No. 11:22:49</p> <p>21 Q. It is not true or you don't</p> <p>22 recall?</p> <p>23 A. It is not true.</p> <p>24 Q. There came a point in time where</p> <p>25 you -- strike that. 11:23:05</p>

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1 Hesse
2 There came a point in time where
3 the five plaintiffs in this matter were
4 terminated from Ocean Beach; is that correct?
5 A. Yes. 11:23:16
6 Q. When was that?
7 A. I believe they -- April 2nd for
8 four of them and it was later for Mr. Snyder.
9 Q. Do you recall when Mr. Snyder was
10 terminated? 11:23:31
11 A. Specifically I don't know the
12 date, no.
13 Q. Do you recall how many -- was it
14 weeks, days, months after April 2nd that Mr.
15 Snyder was terminated? 11:23:42
16 A. It may have been a couple of
17 weeks, I am not specifically sure.
18 Q. Who made the decision to terminate
19 their employment?
20 A. I did. 11:23:55
21 Q. Did you consult with anybody in
22 making that decision?
23 A. I don't think so.
24 Q. When did you make the decision to
25 terminate their employment? 11:24:04

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1 Hesse
2 A. Sometime in I guess January of
3 '06.
4 Q. When did you first alert somebody
5 about the decision to terminate their 11:24:22
6 employment that you made in January of '06?
7 A. I believe what I did is, I didn't
8 know how to go about it, so I called Civil
9 Service and I asked them for a little
10 direction. 11:24:37
11 Q. Who in Civil Service did you call?
12 A. I believe it was Allison Chester
13 at the time.
14 Q. And she was the person in Civil
15 Service assigned to the Ocean Beach account? 11:24:54
16 A. Yes.
17 Q. You dealt with her in the past on
18 Civil Service issues?
19 A. In the past, yes.
20 Q. When was that call? 11:25:00
21 A. I don't specifically know the
22 date.
23 Q. Do you recall what month it was?
24 A. It could have been January,
25 February, even March, I am not positive. 11:25:12

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1 Hesse
2 Q. Is there anything that you can
3 think of that would refresh your recollection?
4 A. No.
5 Q. Did you take any notes of the 11:25:20
6 call?
7 A. No.
8 Q. Did you put it on any calendar or
9 diary?
10 A. No. 11:25:25
11 Q. Tell me what you recall about that
12 call?
13 A. I believe I stated it on the first
14 day of testimony that I called her. I asked
15 her what their rights were as seasonal police 11:25:35
16 officers. I asked her what the Village's
17 rights were and what my rights would be.
18 Q. What did she respond?
19 A. She said that she would have to
20 speak to her supervisor and find out some 11:25:50
21 details and that she would get back to me.
22 Q. Did she ever get back to you?
23 A. Yes.
24 Q. Do you recall who the supervisor
25 was that she had to get in touch with? 11:25:59

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1 Hesse
2 A. I don't know.
3 Q. What did she tell you when she got
4 back to you?
5 A. She told me that all part-time 11:26:06
6 seasonal officers are at will employees, and
7 that you could terminate or not rehire or just
8 not ask them back for any reason without
9 cause.
10 Q. Did she tell you that there are 11:26:23
11 any reasons that couldn't form the basis of
12 the decision to terminate their employment?
13 A. No.
14 Q. Just so I am clear at that point
15 in time what was your title? 11:26:43
16 A. At that time I was the -- I was
17 appointed Acting Deputy Chief.
18 MR. CONNOLLY: We are talking
19 about when you are saying at that point
20 in -- 11:26:53
21 MR. GOODSTADT: When he had this
22 conversation.
23 MR. CONNOLLY: Yes.
24 Q. Just so I am clear for the record
25 at no point were you the mayor of Ocean Beach; 11:26:59

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1 Hesse
2 correct?
3 A. No.
4 **Q. At no point were you the acting**
5 **mayor? 11:27:03**
6 MR. NOVIKOFF: We can stipulate to
7 that.
8 A. No.
9 MR. GOODSTADT: We have some
10 testimony from Civil Service as to who 11:27:10
11 can make these decisions.
12 MR. NOVIKOFF: But we can
13 stipulate that he was never the mayor,
14 acting mayor, trustee, acting trustee
15 member or clerk. 11:27:18
16 **Q. Were you ever the clerk of the**
17 **Village of Ocean Beach?**
18 A. No.
19 **Q. Acting clerk of the Village of**
20 **Ocean Beach? 11:27:24**
21 A. No.
22 **Q. Do you recall anything else in**
23 **that conversation that you had with**
24 **Ms. Chester, the second conversation?**
25 A. No. 11:27:33

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1 Hesse
2 **Q. When was the first time that you**
3 **alerted anybody who was either an employee of**
4 **the Village of Ocean Beach or a member of the**
5 **Board of Trustees of Ocean Beach about your 11:27:46**
6 **decision to terminate the five plaintiffs?**
7 A. I believe I wrote a memo to the
8 Village Clerk and to I think I cc'd it to the
9 mayor and Trustee Loeffler.
10 **Q. Do you recall when that was? 11:28:03**
11 A. The specific date that I wrote it,
12 April 4th, somewhere in there.
13 **Q. It was after you had already**
14 **notified four of the five plaintiffs that they**
15 **were terminated? 11:28:16**
16 A. Yes.
17 MR. GOODSTADT: Would you mark
18 this document as Hesse Exhibit 27, letter
19 dated March 11, 2006.
20 (Hesse Exhibit 27, letter dated 11:28:20
21 March 11, 2006, marked for
22 identification, as of this date.)
23 **Q. I place in front of Mr. Hesse what**
24 **has been marked as Hesse Exhibit 27, a**
25 **one-page exhibit bearing Bates 2662. 11:28:55**

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1 Hesse
2 **Mr. Hesse, do you recognize the**
3 **document that has been marked as Hesse Exhibit**
4 **27?**
5 A. Yes. 11:29:07
6 **Q. What is this document?**
7 A. This was a memo sent out to all
8 officers of the department to come for a
9 meeting.
10 **Q. Did you send this to the five 11:29:18**
11 **plaintiffs?**
12 A. Yes.
13 **Q. Why did you send it to the five**
14 **plaintiffs if you made the decision to**
15 **terminate their employment? 11:29:23**
16 A. Because I wanted them to come to
17 the meeting with all their equipment.
18 **Q. You see in the fourth line down in**
19 **this memo it says new ID will be issued to**
20 **all? 11:29:37**
21 A. Yes.
22 **Q. Why did you send that to the**
23 **plaintiffs saying that new ID would be issued**
24 **to all?**
25 A. It was a generic letter that I 11:29:44

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1 Hesse
2 sent to all members of the department.
3 **Q. So you didn't mean that new ID**
4 **would be issued to all of the people who were**
5 **invited to the meeting; is that correct? 11:29:54**
6 A. Yes. You are correct.
7 **Q. Did you speak with any other --**
8 **strike that.**
9 **Did you alert any other police**
10 **officers at Ocean Beach that the plaintiffs 11:30:07**
11 **were going to be terminated prior to April 2,**
12 **2006?**
13 A. Yes.
14 **Q. Who did you speak with?**
15 A. Only one, Paul Trosko, who was my 11:30:14
16 full-time police officer.
17 **Q. What did you tell Paul Trosko?**
18 A. I told him what I was going to do.
19 **Q. Did you tell him why you were**
20 **going to do it? 11:30:26**
21 A. I don't remember specifically.
22 **Q. This April 2006, that is the first**
23 **year, the first season in which you were the**
24 **Deputy Chief?**
25 MR. NOVIKOFF: Objection to the 11:30:37

<p style="text-align: right;">Page 615</p> <p>1 Hesse</p> <p>2 form only to the extent that the question</p> <p>3 implies that April 2nd is part of the</p> <p>4 season.</p> <p>5 Q. That is a good point. 11:30:47</p> <p>6 The meeting on April 2nd, that was</p> <p>7 the first preseason meeting that you presided</p> <p>8 over as Deputy Chief or Acting Deputy Chief?</p> <p>9 A. Yes.</p> <p>10 Q. In all the other prior seasons Ed 11:30:59</p> <p>11 Paradiso was still actively working as the</p> <p>12 chief?</p> <p>13 A. Yes.</p> <p>14 Q. And as you understand it this was</p> <p>15 the first year, 2006, in which you had the 11:31:13</p> <p>16 authority to hire and fire?</p> <p>17 A. That is what I believed, yes.</p> <p>18 Q. Did you notify Ed Paradiso that</p> <p>19 you had terminated the five plaintiffs</p> <p>20 employment prior to telling them on April 2nd? 11:31:31</p> <p>21 MR. CONNOLLY: Objection to the</p> <p>22 form.</p> <p>23 A. I don't think I did.</p> <p>24 Q. Why not?</p> <p>25 A. Well we were really not on 11:31:39</p>	<p style="text-align: right;">Page 617</p> <p>1 Hesse</p> <p>2 Q. Did you invite Ed Paradiso to the</p> <p>3 meeting?</p> <p>4 A. No.</p> <p>5 Q. How come? 11:32:40</p> <p>6 A. I don't know.</p> <p>7 Q. Why did you terminate Frank</p> <p>8 Fiorillo?</p> <p>9 A. Because of his regular</p> <p>10 insubordination and I felt that now that I was 11:32:56</p> <p>11 the chief that he would continue with his</p> <p>12 insubordination.</p> <p>13 Q. Any other reasons?</p> <p>14 A. No.</p> <p>15 Q. What incidents of insubordination 11:33:10</p> <p>16 led you to terminate him?</p> <p>17 A. Like I stated on the first day,</p> <p>18 specifically one incident that sticks out is</p> <p>19 we were driving in to work, it was myself,</p> <p>20 John Dwyer, Paul Corolla and Mr. Fiorillo in 11:33:27</p> <p>21 the car. I had given an order to John Dwyer</p> <p>22 who was a paramedic at the time to please go</p> <p>23 over all the medical gear in the station house</p> <p>24 to make sure that we have all our equipment</p> <p>25 up-to-date, and I turned around and I asked 11:33:47</p>
<p style="text-align: right;">Page 616</p> <p>1 Hesse</p> <p>2 speaking terms at that point.</p> <p>3 Q. What do you mean by that?</p> <p>4 A. We just didn't see eye-to-eye on</p> <p>5 certain things, and I was told that I was put 11:31:57</p> <p>6 in charge of the Police Department because he</p> <p>7 was not expected to come back and I was in</p> <p>8 charge. I didn't have to check in with him.</p> <p>9 Q. Who told you that he was not</p> <p>10 expected to come back? 11:32:06</p> <p>11 A. It was everybody's belief, the</p> <p>12 village board, the mayors, everybody.</p> <p>13 Q. You said that you were told that</p> <p>14 you were in charge of the police station, he</p> <p>15 wasn't expected back. Who told you that? 11:32:14</p> <p>16 A. It might have been Trustee</p> <p>17 Loeffler.</p> <p>18 Q. When you say Trustee Loeffler,</p> <p>19 Joseph Loeffler, Jr.?</p> <p>20 A. Yes. 11:32:21</p> <p>21 Q. Did he tell you that you didn't</p> <p>22 need to check in with Ed Paradiso on decisions</p> <p>23 affecting the police station?</p> <p>24 MR. CONNOLLY: Objection.</p> <p>25 A. Specifically no. 11:32:34</p>	<p style="text-align: right;">Page 618</p> <p>1 Hesse</p> <p>2 Mr. Fiorillo if he could please wash the</p> <p>3 windows, the front windshield of the car when</p> <p>4 we got back to the station house, and he flat</p> <p>5 out told me no. 11:34:00</p> <p>6 I turned around, I said what do</p> <p>7 you mean no. His phrase to me is I am not</p> <p>8 fucking doing it. Get somebody else to do it.</p> <p>9 I do enough around here. I stopped the</p> <p>10 vehicle and I said if he chose not to do it he 11:34:17</p> <p>11 can go home. He shut up and we drove the rest</p> <p>12 of the way into work and then I told him not</p> <p>13 to do it and I put him on a post.</p> <p>14 Q. Was Frank Fiorillo on duty when</p> <p>15 you told him to wash the windows? 11:34:33</p> <p>16 A. Yes.</p> <p>17 MR. NOVIKOFF: Was he on duty when</p> <p>18 he made the request in the car, or was he</p> <p>19 on duty when he was asked to actually</p> <p>20 wash the car? 11:34:46</p> <p>21 Q. Was he on duty when you made the</p> <p>22 request in the car?</p> <p>23 A. Yes.</p> <p>24 Q. Was he on duty at the time that</p> <p>25 you wanted him to actually perform the washing 11:34:52</p>

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<p>1 Hesse</p> <p>2 of the window?</p> <p>3 A. He would have been on duty, yes.</p> <p>4 Q. Was he getting paid for that time?</p> <p>5 A. Yes. 11:35:00</p> <p>6 MR. NOVIKOFF: Objection.</p> <p>7 MR. CONNOLLY: Which time?</p> <p>8 Q. Was he getting paid for the time</p> <p>9 that you wanted him to wash the window?</p> <p>10 A. Yes. 11:35:10</p> <p>11 Q. Was he getting paid at the time</p> <p>12 that you had directed him not to wash the</p> <p>13 window?</p> <p>14 A. Yes.</p> <p>15 Q. Are you sure about that? 11:35:16</p> <p>16 A. We were in the police car.</p> <p>17 Q. Did you write Mr. Fiorillo up for</p> <p>18 that?</p> <p>19 A. Yes, I did.</p> <p>20 Q. Did you put it in his personnel 11:35:27</p> <p>21 file?</p> <p>22 A. Yes.</p> <p>23 RQ Q. I would like to mark the record to</p> <p>24 request the production of the alleged</p> <p>25 write-up, I don't think we have it. 11:35:42</p>	<p>1 Hesse</p> <p>2 direct him not to move?</p> <p>3 MR. CONNOLLY: At any time?</p> <p>4 Q. At any time?</p> <p>5 A. Pretty much the same compound 11:36:42</p> <p>6 question, but he was put on a post for three</p> <p>7 days, but he can move around.</p> <p>8 Q. What post?</p> <p>9 A. The corner of Denhoff and Bay</p> <p>10 Walk. 11:36:55</p> <p>11 Q. Was that in response to his</p> <p>12 complaint to Mr. Paradiso?</p> <p>13 A. No.</p> <p>14 Q. Was it at or about the same time</p> <p>15 or shortly after his complaint to Mr. 11:37:04</p> <p>16 Paradiso?</p> <p>17 A. No.</p> <p>18 Q. Was it before or after the</p> <p>19 complaint to Mr. Paradiso that he was placed</p> <p>20 on that corner? 11:37:12</p> <p>21 A. It was before.</p> <p>22 Q. Was it before or after he was told</p> <p>23 to wash the windows?</p> <p>24 A. It was after.</p> <p>25 Q. So you put him at that post on 11:37:22</p>
Page 620	Page 622
<p>1 Hesse</p> <p>2 MR. CONNOLLY: I am sure it was</p> <p>3 requested?</p> <p>4 THE WITNESS: It was.</p> <p>5 Q. Did you report Mr. Fiorillo to Ed 11:35:50</p> <p>6 Paradiso?</p> <p>7 A. Yes.</p> <p>8 Q. Do you know whether Mr. Fiorillo</p> <p>9 reported the incident to Ed Paradiso?</p> <p>10 A. Yes, he did. 11:36:01</p> <p>11 Q. Did Ed Paradiso tell you that</p> <p>12 Fiorillo had complained to him about the</p> <p>13 incident?</p> <p>14 A. Yes, he did.</p> <p>15 Q. Is it true that you placed Mr. 11:36:12</p> <p>16 Fiorillo in the same post for three straight</p> <p>17 tours and told him he couldn't move in</p> <p>18 response to his complaint to Mr. Paradiso?</p> <p>19 A. No, I did not.</p> <p>20 MR. NOVIKOFF: Your question was 11:36:27</p> <p>21 kind of compound. I didn't object, I</p> <p>22 will take his answer, but you may want to</p> <p>23 clarify.</p> <p>24 Q. Did you ever place Mr. Fiorillo at</p> <p>25 the same post for three straight tours and 11:36:35</p>	<p>1 Hesse</p> <p>2 Denhoff in response to his refusal to wash the</p> <p>3 windows?</p> <p>4 A. Yes.</p> <p>5 Q. Did you tell him that? 11:37:31</p> <p>6 A. Yes.</p> <p>7 Q. Is that reflected in your write-up</p> <p>8 of him?</p> <p>9 A. I don't specifically remember.</p> <p>10 Q. Did you tell anybody that you were 11:37:39</p> <p>11 placing him, other than Mr. Fiorillo, did you</p> <p>12 tell anyone else that you were placing him at</p> <p>13 that corner for refusing to wash the windows?</p> <p>14 A. I don't recall.</p> <p>15 Q. What was the reason that you told 11:37:51</p> <p>16 Mr. Fiorillo that he was being terminated?</p> <p>17 A. Mr. Fiorillo's regular patrol duty</p> <p>18 was the use of a G.E.M. car and residential</p> <p>19 patrol, that was like his favorite thing to</p> <p>20 do, and so I took it away from him and I put 11:38:09</p> <p>21 him on a foot post.</p> <p>22 MR. CONNOLLY: Different question.</p> <p>23 Q. My question is what reason did you</p> <p>24 tell Mr. Fiorillo on April 2, 2006 was the</p> <p>25 reason for his termination? 11:38:22</p>

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<p>1 Hesse</p> <p>2 MR. NOVIKOFF: Objection to the</p> <p>3 form.</p> <p>4 Q. At some point on April 2, 2006 you</p> <p>5 told Mr. Fiorillo -- at some point on April 2, 11:38:31</p> <p>6 2006 you told Mr. Fiorillo that he was being</p> <p>7 terminated; correct?</p> <p>8 A. Yes, I told him he was not coming</p> <p>9 back to work.</p> <p>10 Q. What reason did you give him for 11:38:41</p> <p>11 making that decision to terminate his</p> <p>12 employment?</p> <p>13 A. I flat out told him because of his</p> <p>14 insubordination on a regular basis is why I</p> <p>15 felt it necessary that he did not any longer 11:38:55</p> <p>16 work for us or me.</p> <p>17 Q. You didn't tell him that it was</p> <p>18 due to budget cuts?</p> <p>19 A. Absolutely not.</p> <p>20 Q. And other than for the one 11:39:06</p> <p>21 incident that you testified to what other</p> <p>22 incidents of insubordination led you to</p> <p>23 terminate his employment?</p> <p>24 A. There were other incidents that</p> <p>25 were not written up because I felt it 11:39:15</p>	<p>1 Hesse</p> <p>2 MR. NOVIKOFF: Objection.</p> <p>3 A. Why I didn't ask him back, yes.</p> <p>4 Q. I think you said you didn't write</p> <p>5 him up; correct? 11:40:19</p> <p>6 A. That is correct.</p> <p>7 Q. Any other alleged incidents of</p> <p>8 insubordination that led you to terminate his</p> <p>9 employment?</p> <p>10 A. There were others, but 11:40:24</p> <p>11 specifically I can't recall.</p> <p>12 Q. So the only two that you can</p> <p>13 recall are the two that you testified to?</p> <p>14 A. Right now, yes.</p> <p>15 Q. Did you tell him that those two 11:40:35</p> <p>16 specific instances led to his termination?</p> <p>17 A. I don't know if I said those two</p> <p>18 incidents specifically, but I told him about</p> <p>19 his insubordination. I told him that it was 11:40:47</p> <p>20 best that he just move on with his life.</p> <p>21 Q. Anything else discussed during</p> <p>22 that conversation that you had with Mr.</p> <p>23 Fiorillo on April 2nd?</p> <p>24 A. Yes, he proceeded to state that he</p> <p>25 would do whatever I asked him to do, and I 11:40:56</p>
Page 624	Page 626
<p>1 Hesse</p> <p>2 justified enough to speak to the individual</p> <p>3 officer. But one that -- there was one night</p> <p>4 in particular, I don't remember the date, it</p> <p>5 was probably in 2004, we had a possible rape 11:39:27</p> <p>6 investigation going on, we were backed up on</p> <p>7 paperwork and I asked him stop writing</p> <p>8 summonses, you are backing up the log, you are</p> <p>9 tying up the radio.</p> <p>10 I had to take him off his post, 11:39:42</p> <p>11 take a post in front of the police station,</p> <p>12 and he subsequently started to write more</p> <p>13 summonses. He just -- that was a regular type</p> <p>14 of situation that would go on with Mr.</p> <p>15 Fiorillo. 11:39:58</p> <p>16 Q. When was that incident?</p> <p>17 A. It might have been in 2004.</p> <p>18 Q. And did you ever speak to Chief</p> <p>19 Paradiso about that?</p> <p>20 A. About that specifically, no. 11:40:04</p> <p>21 Q. How come?</p> <p>22 A. Because I didn't find it</p> <p>23 necessary.</p> <p>24 Q. But that was one of the reasons</p> <p>25 that you terminated his employed? 11:40:11</p>	<p>1 Hesse</p> <p>2 told him I didn't believe him, and that he</p> <p>3 should just move on and we shook hands and</p> <p>4 parted ways.</p> <p>5 Q. Anything else discussed during 11:41:08</p> <p>6 that meeting?</p> <p>7 A. No.</p> <p>8 Q. Where was that meeting held?</p> <p>9 A. That was a one-on-one conversation</p> <p>10 that he and I had in the what is called the 11:41:14</p> <p>11 boat house in Ocean Beach.</p> <p>12 Q. So there was nobody else during</p> <p>13 that conversation?</p> <p>14 A. Not inside the room, no.</p> <p>15 Q. What did you tell Mr. Carter the 11:41:28</p> <p>16 reason for his layoff?</p> <p>17 A. Well, Mr. Carter did want a leave</p> <p>18 of absence which he took on his own and, you</p> <p>19 know, I explained to him that his -- he would</p> <p>20 sleep on duty regularly and he would brag 11:41:53</p> <p>21 about it. And I explained to him, you just</p> <p>22 had twins, you have a full-time job, then you</p> <p>23 come into Ocean Beach to sleep. It is not</p> <p>24 fair to me and the other officers, that he</p> <p>25 would brag about it and everything else. 11:42:10</p>

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<p>1 Hesse</p> <p>2 I just told him, I said maybe it</p> <p>3 is best that you just concentrate on your</p> <p>4 family life, concentrate on your job and just</p> <p>5 move on. 11:42:19</p> <p>6 Q. Did you ever witness him sleeping</p> <p>7 on the job?</p> <p>8 A. Yes.</p> <p>9 Q. How many times?</p> <p>10 A. Over 16 years of working with him, 11:42:24</p> <p>11 I don't know, a handful.</p> <p>12 Q. Did you ever write him up for it?</p> <p>13 A. No.</p> <p>14 Q. How come?</p> <p>15 A. Because I didn't find it necessary 11:42:33</p> <p>16 to write him up for it.</p> <p>17 Q. Did you ever speak with Ed</p> <p>18 Paradiso about Mr. Carter's sleeping on the</p> <p>19 job?</p> <p>20 A. I don't specifically recall. 11:42:45</p> <p>21 Q. Did you ever speak with any of the</p> <p>22 prior chiefs that you worked under -- did you</p> <p>23 work under any other prior chiefs?</p> <p>24 A. No.</p> <p>25 Q. So you don't recall ever speaking 11:42:53</p>	<p>1 Hesse</p> <p>2 A. Specifically yes, he should not be</p> <p>3 sleeping on duty.</p> <p>4 Q. I am asking is that what you told</p> <p>5 him specifically? 11:43:49</p> <p>6 MR. CONNOLLY: Using that specific</p> <p>7 word.</p> <p>8 A. I may have used the word</p> <p>9 directive, failed to follow directive of not</p> <p>10 to sleep on duty. I may have said that, yes. 11:43:56</p> <p>11 Q. I just want to be clear, you told</p> <p>12 him that his sleeping was the reason why you</p> <p>13 were terminating him?</p> <p>14 A. Yes.</p> <p>15 Q. Was anybody else there when you 11:44:06</p> <p>16 told him that?</p> <p>17 A. No, that was a one-on-one</p> <p>18 conversation.</p> <p>19 Q. Did you tell Paul Trosko that that</p> <p>20 was the reason that you were terminating Ed 11:44:16</p> <p>21 Carter?</p> <p>22 A. Yes.</p> <p>23 Q. Did you tell Paul Trosko that that</p> <p>24 was the reason why you were terminating Mr.</p> <p>25 Fiorillo? 11:44:29</p>
Page 628	Page 630
<p>1 Hesse</p> <p>2 with Mr. Paradiso about your allegation that</p> <p>3 Mr. Carter slept?</p> <p>4 A. No.</p> <p>5 Q. Did you ever counsel him about his 11:43:01</p> <p>6 sleeping.</p> <p>7 A. I spoke to him about it.</p> <p>8 Q. How many times?</p> <p>9 A. I don't recall.</p> <p>10 Q. Was anybody present during these 11:43:09</p> <p>11 alleged conversations?</p> <p>12 A. No.</p> <p>13 Q. Is that the reason why you</p> <p>14 terminated Ed Carter?</p> <p>15 A. That is the reason why I let him 11:43:20</p> <p>16 go, yes.</p> <p>17 Q. Isn't it true that you told him</p> <p>18 that he was being terminated because of</p> <p>19 directives?</p> <p>20 MR. CONNOLLY: Objection. 11:43:31</p> <p>21 A. Well the directives being sleeping</p> <p>22 on duty, yes.</p> <p>23 Q. You explained to him that that was</p> <p>24 the directive that he was being terminated</p> <p>25 for? 11:43:40</p>	<p>1 Hesse</p> <p>2 A. Yes.</p> <p>3 Q. Did you tell anyone on the Board</p> <p>4 of Trustees to whom you sent the memo to that</p> <p>5 the reason that you fired Ed Carter was 11:44:35</p> <p>6 because he was sleeping?</p> <p>7 A. I don't know if I specifically.</p> <p>8 Q. Did you tell anyone on the Board</p> <p>9 of Trustees that the reason why you fired</p> <p>10 Frank Fiorillo was due to his insubordination? 11:44:45</p> <p>11 MR. CONNOLLY: Again making</p> <p>12 reference to the memo?</p> <p>13 Q. The people that you sent the memo</p> <p>14 to?</p> <p>15 A. Specifically I didn't write it in 11:44:52</p> <p>16 the memo, no.</p> <p>17 Q. How about in any other way did you</p> <p>18 communicate to the trustees to whom you wrote</p> <p>19 that memo to that the reason that you fired</p> <p>20 Fiorillo was due to his alleged 11:45:05</p> <p>21 insubordination?</p> <p>22 MR. CONNOLLY: Again at any time?</p> <p>23 A. I believe I did.</p> <p>24 Q. Who did you tell that to?</p> <p>25 A. Trustee Loeffler and Mayor Rogers, 11:45:13</p>

<p style="text-align: right;">Page 631</p> <p>1 Hesse</p> <p>2 and I believe in conversation I had said</p> <p>3 something to Maryann Minerva, the Village</p> <p>4 Clerk.</p> <p>5 Q. As to the reason why? 11:45:28</p> <p>6 A. Yes.</p> <p>7 Q. When was that?</p> <p>8 A. I don't recall the dates.</p> <p>9 Q. Was it before or after you told</p> <p>10 them that you were terminating him? 11:45:35</p> <p>11 A. I believe it was after.</p> <p>12 Q. How long after?</p> <p>13 A. I don't know.</p> <p>14 Q. Was it days, weeks, months, years?</p> <p>15 A. It could have been. 11:45:40</p> <p>16 Q. Which one?</p> <p>17 A. It could have been all of them</p> <p>18 over the course, time after time of talking</p> <p>19 about this. I don't know.</p> <p>20 Q. When was the first time that you 11:45:49</p> <p>21 informed Maryann Minerva of the reasons that</p> <p>22 you terminated the five plaintiffs?</p> <p>23 A. Probably after I wrote the memo</p> <p>24 and sent the memo on to them.</p> <p>25 Q. How long after? 11:46:04</p>	<p style="text-align: right;">Page 633</p> <p>1 Hesse</p> <p>2 So I guess he thought it wasn't a big deal, I</p> <p>3 don't know.</p> <p>4 Q. When was the first time that Kevin</p> <p>5 Lamm abused somebody? 11:47:21</p> <p>6 A. I don't know. I don't recall.</p> <p>7 Q. How come you didn't ask for his</p> <p>8 termination at that point in time?</p> <p>9 A. I worked with Kevin when I was</p> <p>10 just a PO, it was not my job. 11:47:33</p> <p>11 Q. How about when you became a</p> <p>12 supervisor?</p> <p>13 A. We had some conversations.</p> <p>14 Q. How come you didn't ask for his</p> <p>15 termination at that time? 11:47:41</p> <p>16 A. Because I didn't find it necessary</p> <p>17 and it was not my job to terminate him.</p> <p>18 Q. Has Kevin ever been sued for any</p> <p>19 alleged abuse?</p> <p>20 A. I don't know. 11:47:50</p> <p>21 Q. What was the reason that you told</p> <p>22 Kevin Lamm that you were terminating him?</p> <p>23 A. Just exactly how I explained it to</p> <p>24 you. He left, he didn't put anything in</p> <p>25 writing. He took a full-time job and I 11:48:03</p>
<p style="text-align: right;">Page 632</p> <p>1 Hesse</p> <p>2 A. I don't recall.</p> <p>3 Q. Why did you terminate Kevin Lamm?</p> <p>4 A. You know, Kevin is -- that is a</p> <p>5 unique situation. This guy left on his own, 11:46:14</p> <p>6 never put anything in writing, took a</p> <p>7 full-time job somewhere else. I kind of heard</p> <p>8 that he got a full-time job. He didn't work</p> <p>9 for six or eight months. You know, he is an</p> <p>10 angry individual. He abuses the people that 11:46:31</p> <p>11 he deals with, that he came in contact with.</p> <p>12 He was another one that could be</p> <p>13 insubordinate every once in a while. I just</p> <p>14 thought that it was best that he moved on with</p> <p>15 his career and stayed at his full-time job. 11:46:46</p> <p>16 Q. Did you ever report to Ed Paradiso</p> <p>17 that Kevin Lamm allegedly abused people who he</p> <p>18 came in contact with?</p> <p>19 A. Specifically no, I don't remember.</p> <p>20 Q. Do you think that would have been 11:46:57</p> <p>21 important to tell the Chief of Police that one</p> <p>22 of his police officers was abusing people?</p> <p>23 A. Yes, we had conversations, we had</p> <p>24 these conversations. But Ed Paradiso kind of</p> <p>25 liked these guys and had a soft spot for them. 11:47:11</p>	<p style="text-align: right;">Page 634</p> <p>1 Hesse</p> <p>2 thought it was best that he just move on.</p> <p>3 Q. Is it true that you told him that</p> <p>4 it was due to budget cuts?</p> <p>5 A. No. 11:48:13</p> <p>6 Q. Were there budget cuts that year?</p> <p>7 A. No.</p> <p>8 Q. Had you ever spoken to Ed Paradiso</p> <p>9 that you wanted to terminate Kevin Lamm?</p> <p>10 A. You know specifically I don't 11:48:30</p> <p>11 remember.</p> <p>12 Q. Why did you terminate Tom Snyder?</p> <p>13 A. You know, Tommy at the end, at the</p> <p>14 end of his employment he wasn't showing up to</p> <p>15 work, he was giving other guys his tours 11:48:44</p> <p>16 without calling in. I think he had some</p> <p>17 personal issues going on and, you know, it is</p> <p>18 funny because I never had a specific</p> <p>19 conversation with Tommy about saying that I</p> <p>20 was letting him go or anything. He just kind 11:49:00</p> <p>21 of faded away, and I had no hours available</p> <p>22 for him, and I just didn't put him back on the</p> <p>23 schedule. So we never had an official</p> <p>24 conversation.</p> <p>25 Q. Did you ever write Kevin Lamm up 11:49:14</p>

<p style="text-align: right;">Page 635</p> <p>1 Hesse</p> <p>2 for his alleged abuse?</p> <p>3 A. I don't recall specifically. I</p> <p>4 don't think so.</p> <p>5 Q. Did you ever write him up for 11:49:22</p> <p>6 insubordination?</p> <p>7 A. I don't think so.</p> <p>8 Q. Did you ever write him up for</p> <p>9 being angry?</p> <p>10 A. I don't think so, no. 11:49:29</p> <p>11 Q. When did you tell Mr. Snyder that</p> <p>12 he was being terminated?</p> <p>13 A. I think I just stated, I don't</p> <p>14 think I ever actually told him that.</p> <p>15 Q. Did you meet with him on the dock 11:49:55</p> <p>16 one night and asked for his shield and weapon?</p> <p>17 A. Yeah, we actually met up when I</p> <p>18 was working for the harbor police and he was</p> <p>19 working for the town. I actually met him at</p> <p>20 the Maple Avenue dock. I needed -- I actually 11:50:11</p> <p>21 needed his weapon back so I could get somebody</p> <p>22 else qualified on the Glock, because I was</p> <p>23 short weapons. But I don't know if he</p> <p>24 specifically turned in his shield that day</p> <p>25 either. 11:50:29</p>	<p style="text-align: right;">Page 637</p> <p>1 Hesse</p> <p>2 Q. Why did you terminate Joe Nofi?</p> <p>3 A. Joe Nofi, he was a unique person.</p> <p>4 He just could never concentrate on one thing.</p> <p>5 His summonses were poor, his appearance was 11:51:38</p> <p>6 poor. It was always a scheduling conflict</p> <p>7 with him. You know, he would be scheduled to</p> <p>8 work, he wouldn't show up, he would have</p> <p>9 somebody else take his tour. I just didn't</p> <p>10 want to tolerate it any more, so I asked him 11:51:55</p> <p>11 to move on also.</p> <p>12 Q. What were the reasons that you</p> <p>13 told him that he was being terminated?</p> <p>14 A. I just explained that, I gave him</p> <p>15 the same jargon that I just give you. That 11:52:05</p> <p>16 his appearance was poor, his work was poor,</p> <p>17 his attitude was poor. His interaction with</p> <p>18 people was really poor.</p> <p>19 Q. Did you ever write him up for his</p> <p>20 poor summonses? 11:52:23</p> <p>21 A. No.</p> <p>22 Q. Did you ever write him up for a</p> <p>23 poor appearance?</p> <p>24 A. No.</p> <p>25 Q. Did you ever write him up for 11:52:29</p>
<p style="text-align: right;">Page 636</p> <p>1 Hesse</p> <p>2 Q. Did you schedule to meet him</p> <p>3 there?</p> <p>4 A. I think it was like a chance</p> <p>5 thing, that he was working, I was working and 11:50:35</p> <p>6 we met up.</p> <p>7 Q. Did you run into each other?</p> <p>8 A. No, I think we communicated</p> <p>9 somehow, because I might have asked him that I</p> <p>10 needed the weapon back and he knew that I was 11:50:45</p> <p>11 working this particular day, so we met up and</p> <p>12 he handed over his weapon.</p> <p>13 Q. Why did you tell him that you were</p> <p>14 terminating him?</p> <p>15 A. Well for the third time I don't 11:50:57</p> <p>16 think I ever told him that he was being</p> <p>17 terminated.</p> <p>18 Q. Isn't it true that you told him</p> <p>19 that it was because he was the guy who ratted</p> <p>20 to Civil Service about the uncertified 11:51:06</p> <p>21 officers?</p> <p>22 A. Absolutely not.</p> <p>23 Q. Did he hand over his shield that</p> <p>24 day?</p> <p>25 A. I don't remember. 11:51:22</p>	<p style="text-align: right;">Page 638</p> <p>1 Hesse</p> <p>2 scheduling conflicts?</p> <p>3 A. He has been written up for that.</p> <p>4 I wouldn't say written up, but advised not to</p> <p>5 do that. 11:52:37</p> <p>6 Q. In writing?</p> <p>7 A. Yes.</p> <p>8 RQ Q. I would like to mark the record to</p> <p>9 request production of any alleged written</p> <p>10 warning or writings that -- 11:52:45</p> <p>11 A. It has been produced.</p> <p>12 Q. Did you ever write him up for his</p> <p>13 poor interaction with people?</p> <p>14 A. No.</p> <p>15 Q. Did you ever discuss any of those 11:52:55</p> <p>16 issues with Ed Paradiso?</p> <p>17 A. Yes.</p> <p>18 Q. Which ones?</p> <p>19 A. All of them.</p> <p>20 Q. What was Ed Paradiso's response? 11:53:03</p> <p>21 A. You know, I don't really recall.</p> <p>22 Q. Isn't it true that you told Joe</p> <p>23 Nofi that he was being terminated due to</p> <p>24 budget cuts?</p> <p>25 A. No. 11:53:19</p>

<p style="text-align: right;">Page 639</p> <p>1 Hesse</p> <p>2 Q. Isn't it true that you told him on</p> <p>3 that day that he is not like the other four</p> <p>4 assholes that you were terminating?</p> <p>5 A. No way. 11:53:30</p> <p>6 Q. You told him he was a good man and</p> <p>7 a good father?</p> <p>8 A. No.</p> <p>9 Q. Was anyone else present when you</p> <p>10 told Joe Nofi the reasons for his termination? 11:53:37</p> <p>11 A. No.</p> <p>12 MR. NOVIKOFF: I don't think you</p> <p>13 asked that question with regard to the</p> <p>14 other plaintiffs.</p> <p>15 Q. Was anyone else present when you 11:53:43</p> <p>16 informed Mr. Lamm that he was terminated?</p> <p>17 A. No.</p> <p>18 Q. Was anyone else present when you</p> <p>19 told Mr. Fiorillo that he was terminated?</p> <p>20 A. No. 11:53:57</p> <p>21 Q. Was anyone else present on the</p> <p>22 docks the night that you spoke to Mr. Snyder</p> <p>23 about returning his weapon and shield?</p> <p>24 A. It was a day shift, but no.</p> <p>25 Q. Was anyone else present at the 11:54:07</p>	<p style="text-align: right;">Page 641</p> <p>1 Hesse</p> <p>2 job performance. He seemed to be angry with</p> <p>3 some of the other employees, and I thought it</p> <p>4 was just best that he move on at that time.</p> <p>5 Q. Which other employees was he angry 11:55:16</p> <p>6 with?</p> <p>7 A. Oh God. Ty Bacon, the Bosetti</p> <p>8 brothers, Arnie Hardman. Anybody that came on</p> <p>9 from the City job that came on to our job for</p> <p>10 some reason he had some kind of disdain toward 11:55:32</p> <p>11 City cops, and it was just becoming an issue.</p> <p>12 Q. Is that one of the reasons that</p> <p>13 you terminated him?</p> <p>14 A. It was one of the reasons why,</p> <p>15 yes. 11:55:43</p> <p>16 Q. Did he tell you why he didn't like</p> <p>17 the Bosetti's or Bacon or Hardman?</p> <p>18 A. Well there were comments being</p> <p>19 made by him and Carter about City cops because</p> <p>20 I think their boss on their job was a retired 11:55:54</p> <p>21 City cop that just got in trouble on their</p> <p>22 job, and for some reason they just hated City</p> <p>23 cops.</p> <p>24 Q. They told you that?</p> <p>25 A. Who is they? 11:56:09</p>
<p style="text-align: right;">Page 640</p> <p>1 Hesse</p> <p>2 time that you told Carter the reasons for his</p> <p>3 termination?</p> <p>4 A. No.</p> <p>5 Q. Why did you wait for them to come 11:54:12</p> <p>6 to the meeting on April 2nd to tell them that</p> <p>7 you were terminating their employment?</p> <p>8 A. I thought it was the best way to</p> <p>9 just get all the equipment back and be able to</p> <p>10 just have a sit down with them and tell them 11:54:29</p> <p>11 what was going on.</p> <p>12 Q. Did you think that it would be</p> <p>13 humiliating in front of the other officers who</p> <p>14 were assembled for the meeting?</p> <p>15 A. At the time, no. 11:54:39</p> <p>16 Q. How about now, do you think it was</p> <p>17 humiliating?</p> <p>18 A. In retrospect I should have done</p> <p>19 it a better way.</p> <p>20 Q. When did you decide to terminate 11:54:47</p> <p>21 Snyder?</p> <p>22 A. You know, I always liked Tommy, he</p> <p>23 is a good guy. I always thought he was a hard</p> <p>24 worker. But I thought at the end he just had</p> <p>25 some personal issues that were affecting his 11:55:06</p>	<p style="text-align: right;">Page 642</p> <p>1 Hesse</p> <p>2 Q. Mr. Snyder and I guess Ed Carter?</p> <p>3 A. Yes, they had told me that.</p> <p>4 Q. And they told you that they didn't</p> <p>5 like the Bosetti's because of that reason? 11:56:19</p> <p>6 A. I don't know if it was entirely</p> <p>7 specifically that reason, but that was</p> <p>8 definitely part of it.</p> <p>9 Q. Did you ever speak to the</p> <p>10 Bosetti's about their feelings for Snyder? 11:56:27</p> <p>11 MR. NOVIKOFF: Objection.</p> <p>12 Foundation.</p> <p>13 A. I think it was known.</p> <p>14 Q. What was known?</p> <p>15 A. That they did not get along. They 11:56:36</p> <p>16 didn't like each other.</p> <p>17 Q. Why didn't the Bosetti's like</p> <p>18 Snyder?</p> <p>19 MR. CONNOLLY: Objection.</p> <p>20 MR. NOVIKOFF: Objection. 11:56:44</p> <p>21 A. I think the Bosetti's felt that</p> <p>22 Tommy Snyder and -- Tommy Snyder specifically</p> <p>23 with the Halloween incident, they thought it</p> <p>24 was a set up on them to get them into trouble.</p> <p>25 Q. Did you think it was a set up on 11:56:58</p>

Page 643	Page 645
<p>1 Hesse</p> <p>2 them?</p> <p>3 A. No.</p> <p>4 Q. When did the Bosetti's let you</p> <p>5 know that they thought it was a set up? 11:57:03</p> <p>6 A. I think when I finally started to</p> <p>7 talk to them about the Halloween incident,</p> <p>8 they kept feeling that they were being set up.</p> <p>9 Q. Do you recall when the first time</p> <p>10 that they told you that? 11:57:22</p> <p>11 A. Specifically no. I brushed it</p> <p>12 off.</p> <p>13 Q. Did there come a point in time</p> <p>14 where you announced to the department the</p> <p>15 termination of the five plaintiffs? 11:57:40</p> <p>16 A. No.</p> <p>17 Q. Did you tell them that day that</p> <p>18 the five plaintiffs were being terminated?</p> <p>19 MR. CONNOLLY: They being those</p> <p>20 present at the meeting. 11:57:48</p> <p>21 MR. GOODSTADT: Yes. Right.</p> <p>22 MR. NOVIKOFF: Well actually your</p> <p>23 question I think he testified that he had</p> <p>24 not made the decision about Snyder prior</p> <p>25 to April 2nd. 11:57:58</p>	<p>1 Hesse</p> <p>2 no.</p> <p>3 Q. What Richard Bosetti's reaction</p> <p>4 was?</p> <p>5 A. I don't know. 11:58:51</p> <p>6 Q. Isn't it true that they said its</p> <p>7 about time that you got rid of those assholes?</p> <p>8 A. No.</p> <p>9 Q. Isn't it true that you told Gary</p> <p>10 Bosetti that he owed you hours for making that 11:59:00</p> <p>11 decision?</p> <p>12 A. I don't understand what you mean</p> <p>13 by that.</p> <p>14 Q. That he owed you hours to work,</p> <p>15 extra tours for terminating the plaintiffs? 11:59:11</p> <p>16 A. That he, Gary, owes me hours?</p> <p>17 Q. Yes.</p> <p>18 A. I don't know what you mean by</p> <p>19 that, no.</p> <p>20 Q. Were other part-time officers 11:59:21</p> <p>21 hired, newly hired for that summer?</p> <p>22 A. Yes.</p> <p>23 Q. How many?</p> <p>24 A. Three I believe.</p> <p>25 Q. Was Chris Moran at the meeting of 11:59:29</p>
Page 644	Page 646
<p>1 Hesse</p> <p>2 Q. Did you announce to the officers</p> <p>3 who were at the meeting that you had</p> <p>4 terminated some of the plaintiffs?</p> <p>5 A. I don't know -- 11:58:09</p> <p>6 Q. Or all of the plaintiffs?</p> <p>7 A. I don't think I made an</p> <p>8 announcement.</p> <p>9 Q. Did you tell them, did you tell</p> <p>10 anybody there that day that any of the 11:58:17</p> <p>11 plaintiffs had been terminated?</p> <p>12 A. I think I was specifically asked</p> <p>13 and I said that they are going to move on with</p> <p>14 their lives.</p> <p>15 Q. Did you tell them why? 11:58:26</p> <p>16 A. No.</p> <p>17 Q. Isn't it true that you told the</p> <p>18 assembled officers that you terminated Carter</p> <p>19 and Snyder because you thought they were going</p> <p>20 to wear a wire for the DA? 11:58:36</p> <p>21 A. No.</p> <p>22 Q. Do you recall what Gary Bosetti's</p> <p>23 reaction was when you told him that the</p> <p>24 plaintiffs were terminated?</p> <p>25 A. What his specific reaction was, 11:58:49</p>	<p>1 Hesse</p> <p>2 the remaining department?</p> <p>3 A. I think so.</p> <p>4 Q. Were any full-time officers hired</p> <p>5 that year? 11:59:44</p> <p>6 A. Yes.</p> <p>7 Q. How many?</p> <p>8 A. I think just one.</p> <p>9 Q. Who was hired that year?</p> <p>10 A. I think that was Paul Trosko. 11:59:50</p> <p>11 Q. When was he hired?</p> <p>12 A. I don't remember the exact date.</p> <p>13 Q. Do you recall when he started</p> <p>14 working?</p> <p>15 A. I would have to look back in the 12:00:04</p> <p>16 records, no.</p> <p>17 MR. GOODSTADT: Off the record.</p> <p>18 MR. CONNOLLY: The calendar year</p> <p>19 2006, when you said that year?</p> <p>20 MR. GOODSTADT: Yes, I mean that 12:00:18</p> <p>21 year, 2006. Off the record for two</p> <p>22 seconds.</p> <p>23 THE VIDEOGRAPHER: The time is</p> <p>24 12:02, we are off the record.</p> <p>25 (Recess taken.) 12:00:28</p>

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<p>1 Hesse</p> <p>2 THE VIDEOGRAPHER: The time is</p> <p>3 12:15, we are on the record.</p> <p>4 Q. Is there something that you wanted</p> <p>5 to add? 12:13:45</p> <p>6 A. You had asked about hiring</p> <p>7 full-time police officers?</p> <p>8 Q. Right.</p> <p>9 A. Trosko was one, but we hired</p> <p>10 another officer, Frank Foti, he might have 12:13:53</p> <p>11 been at the end of 2006 or 2007.</p> <p>12 Q. Sir, isn't it true that after you</p> <p>13 terminated the plaintiffs that you threatened</p> <p>14 that Kevin Lamm, Frank Fiorillo and Joe Nofi's</p> <p>15 law enforcement careers are over? 12:14:17</p> <p>16 MR. NOVIKOFF: That day or</p> <p>17 subsequent?</p> <p>18 Q. At any point?</p> <p>19 MR. NOVIKOFF: Objection to the</p> <p>20 form of the question. 12:14:25</p> <p>21 MR. CONNOLLY: Objection.</p> <p>22 A. Yes, I did say that.</p> <p>23 Q. When did you say that?</p> <p>24 A. I believe I said it to Eddie</p> <p>25 Carter on the phone. 12:14:34</p>	<p>1 Hesse</p> <p>2 A. Because I didn't like them very</p> <p>3 much at that point.</p> <p>4 Q. Who did you call them mutts to?</p> <p>5 A. I don't recall. I don't know. 12:16:02</p> <p>6 Q. I am going to play an audio again,</p> <p>7 previously produced, I want to identify the</p> <p>8 voices on the audio.</p> <p>9 (Audio played.)</p> <p>10 Q. Do you recognize the voices on 12:16:38</p> <p>11 that audio recording?</p> <p>12 A. Was that me, it didn't really</p> <p>13 sound like me.</p> <p>14 MR. CONNOLLY: Can you play that</p> <p>15 again? 12:16:47</p> <p>16 A. You got to turn that up a little</p> <p>17 bit.</p> <p>18 Q. Sure.</p> <p>19 (Audio played.)</p> <p>20 Q. Do you recognize the voices in 12:17:15</p> <p>21 that audio?</p> <p>22 A. Yes, it was Eddie Carter.</p> <p>23 Q. And who else?</p> <p>24 A. I believe it was me.</p> <p>25 Q. Any reason to believe it is not 12:17:30</p>
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<p>1 Hesse</p> <p>2 Q. When was that?</p> <p>3 A. I don't remember the date.</p> <p>4 Q. Why did you tell him that?</p> <p>5 A. I was just angry at their actions. 12:14:40</p> <p>6 Q. What actions?</p> <p>7 A. Going to Civil Service, trying to</p> <p>8 get me in trouble. You know, when is enough</p> <p>9 enough.</p> <p>10 Q. I want to play the audio just to 12:14:54</p> <p>11 identify that that is what you are referring</p> <p>12 to. This has been previously produced in this</p> <p>13 case.</p> <p>14 (Audio played).</p> <p>15 Do you recognize the voices in 12:15:24</p> <p>16 that conversation?</p> <p>17 A. Yes.</p> <p>18 Q. Who are those voices?</p> <p>19 A. That would be Eddie Carter and</p> <p>20 myself. 12:15:33</p> <p>21 Q. Did you ever call Mr. Fiorillo,</p> <p>22 Mr. Nofi and Mr. Snyder mutts?</p> <p>23 A. Yes. I think in my second day of</p> <p>24 testimony I might have said that.</p> <p>25 Q. Why did you call them mutts? 12:15:52</p>	<p>1 Hesse</p> <p>2 you?</p> <p>3 A. No.</p> <p>4 Q. Did you ever provide any</p> <p>5 references, good or bad, for any of the 12:17:34</p> <p>6 plaintiffs in the case subsequent to their</p> <p>7 employment at Ocean Beach?</p> <p>8 MR. NOVIKOFF: Or neutral?</p> <p>9 Q. Or neutral?</p> <p>10 MR. CONNOLLY: Or did he respond 12:17:49</p> <p>11 to any request for references?</p> <p>12 Q. Yes, or actively provide any</p> <p>13 references.</p> <p>14 MR. CONNOLLY: Objection to the</p> <p>15 form either way. 12:17:59</p> <p>16 A. Boy that is confusing.</p> <p>17 Yes, I believe all my responses</p> <p>18 were neutral.</p> <p>19 Q. How many responses did you provide</p> <p>20 on behalf of Frank Fiorillo? 12:18:06</p> <p>21 A. Specifically maybe two.</p> <p>22 Q. Do you recall what jobs they were</p> <p>23 for?</p> <p>24 A. Southhampton either village or</p> <p>25 town. Maybe Riverhead. I don't specifically 12:18:22</p>

Page 651	Page 653
<p>1 Hesse</p> <p>2 remember.</p> <p>3 Q. Who did you speak with in</p> <p>4 Southampton with respect to Mr. Fiorillo?</p> <p>5 A. I believe there was a sergeant 12:18:32</p> <p>6 that I spoke to.</p> <p>7 Q. Do you remember his name?</p> <p>8 A. No.</p> <p>9 Q. Was it Scott Foster, does that</p> <p>10 ring a bell? 12:18:38</p> <p>11 A. No.</p> <p>12 Q. What did you state to the sergeant</p> <p>13 in Southampton about Mr. Fiorillo?</p> <p>14 A. I didn't state anything. He had</p> <p>15 asked me about him and I said that I cannot 12:18:45</p> <p>16 give him any information. I will only confirm</p> <p>17 dates of employment. And he asked me I think</p> <p>18 to put that in writing which I did, and I sent</p> <p>19 that out to Southampton.</p> <p>20 Q. Did you tell him that Mr. Fiorillo 12:19:01</p> <p>21 was terminated?</p> <p>22 A. I don't think I did, no.</p> <p>23 Q. Did you tell him that Mr. Fiorillo</p> <p>24 was suing you?</p> <p>25 A. No. 12:19:11</p>	<p>1 Hesse</p> <p>2 that conversation to the sergeant or</p> <p>3 lieutenant who you spoke with?</p> <p>4 A. The conversations were very brief</p> <p>5 and I stated dates of employment only, that is 12:20:16</p> <p>6 it. I don't believe I put anything in writing</p> <p>7 for them.</p> <p>8 Q. Did you tell them that Mr.</p> <p>9 Fiorillo was terminated?</p> <p>10 A. No. 12:20:28</p> <p>11 Q. Did you explain to him why you</p> <p>12 couldn't provide any additional information?</p> <p>13 A. No.</p> <p>14 Q. Did you explain to the person at</p> <p>15 Southampton that you spoke with why you 12:20:35</p> <p>16 wouldn't provide any additional information?</p> <p>17 A. I don't believe I ever did.</p> <p>18 Q. Did you ever speak to anyone or</p> <p>19 communicate with anyone in the Northport Bay</p> <p>20 Police Department with respect to Mr. 12:20:48</p> <p>21 Fiorillo?</p> <p>22 A. Northport, no.</p> <p>23 Q. How about Huntington Bay Police</p> <p>24 Department?</p> <p>25 A. Mr. Fiorillo, no. 12:20:54</p>
Page 652	Page 654
<p>1 Hesse</p> <p>2 Q. Do you recall anything else that</p> <p>3 you discussed with the sergeant from</p> <p>4 Southampton?</p> <p>5 A. No. 12:19:19</p> <p>6 Q. Do you recall when that</p> <p>7 conversation happened?</p> <p>8 A. No, I don't.</p> <p>9 Q. Do you recall whether it was days,</p> <p>10 weeks, months, years after you terminated Mr. 12:19:28</p> <p>11 Fiorillo?</p> <p>12 A. Definitely was not years. It</p> <p>13 could have been a few weeks maybe. I don't</p> <p>14 know. I don't recall.</p> <p>15 Q. Who at the Riverhead Police 12:19:39</p> <p>16 Department did you speak with with respect to</p> <p>17 Mr. Fiorillo?</p> <p>18 A. Like I said specifically Riverhead</p> <p>19 I wasn't real positive about. For some reason</p> <p>20 I feel that I had a message from the Chief of 12:19:54</p> <p>21 the Riverhead Police Department that I</p> <p>22 responded back to. I don't think I spoke to</p> <p>23 him, it might have been a sergeant or a</p> <p>24 lieutenant, I don't remember specifically.</p> <p>25 Q. Do you recall what you stated in 12:20:07</p>	<p>1 Hesse</p> <p>2 Q. How about Quogue Village Police</p> <p>3 Department?</p> <p>4 A. No. Quogue, no.</p> <p>5 Q. How about anyone with respect to 12:21:04</p> <p>6 the Village of Babylon?</p> <p>7 A. No.</p> <p>8 Q. Code Enforcement Officer?</p> <p>9 A. No.</p> <p>10 Q. Did you ever speak with anyone at 12:21:11</p> <p>11 the Town of Brookhaven with respect to Mr.</p> <p>12 Fiorillo?</p> <p>13 A. No.</p> <p>14 Q. Did you ever provide any</p> <p>15 references or respond to any request for 12:21:24</p> <p>16 references on behalf of Mr. Snyder?</p> <p>17 A. I don't believe I got any from Mr.</p> <p>18 Snyder.</p> <p>19 Q. How about with respect to the John</p> <p>20 T. Mather Memorial Hospital? 12:21:41</p> <p>21 A. I never got anything from them.</p> <p>22 Q. How about the Town of Brookhaven?</p> <p>23 A. I don't believe I got anything</p> <p>24 from them either.</p> <p>25 Q. I am not asking whether you got 12:21:54</p>

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<p>1 Hesse</p> <p>2 anything. I am asking whether you ever</p> <p>3 communicated with anyone over there with</p> <p>4 respect to Mr. Snyder?</p> <p>5 MR. NOVIKOFF: Objection to the 12:22:00</p> <p>6 form.</p> <p>7 Q. With respect to a potential</p> <p>8 employment opportunity for Mr. Snyder?</p> <p>9 MR. NOVIKOFF: Foundation.</p> <p>10 Objection. 12:22:05</p> <p>11 A. I understand what you are asking,</p> <p>12 but when I say I have not gotten anything, I</p> <p>13 don't think I received a phone call or any</p> <p>14 documentation that said that he was applying</p> <p>15 for the job. 12:22:15</p> <p>16 Q. How about the Suffolk County Park</p> <p>17 Rangers?</p> <p>18 A. Suffolk County Park Rangers; no.</p> <p>19 Q. Did you ever provide any reference</p> <p>20 or respond to any request for a reference on 12:22:26</p> <p>21 of Ed Carter?</p> <p>22 A. I believe there was only one thing</p> <p>23 that came up with Mr. Carter.</p> <p>24 Q. What came up with Mr. Carter?</p> <p>25 A. He called me to ask me if I would 12:22:37</p>	<p>1 Hesse</p> <p>2 that once again just like I reiterated before,</p> <p>3 that he had just had twins, I think he over</p> <p>4 exerted himself. I think he was doing too</p> <p>5 much. That the best thing was to just move 12:24:13</p> <p>6 on.</p> <p>7 Q. How come you told Decanio details</p> <p>8 of why you terminated Carter, but didn't tell</p> <p>9 for example the Southampton Police Department</p> <p>10 details of your termination of Fiorillo? 12:24:26</p> <p>11 A. I know Greg, I am not going to</p> <p>12 sugar coat it with Greg. Greg I know a long</p> <p>13 time. We have done some training together,</p> <p>14 and upon Eddie Carter's request I called him.</p> <p>15 Q. You called Decanio or he called 12:24:41</p> <p>16 you?</p> <p>17 A. I believe I reached out to him. I</p> <p>18 don't believe Greg ever called me.</p> <p>19 Q. Did you ever submit anything in</p> <p>20 writing to Decanio? 12:24:52</p> <p>21 A. No.</p> <p>22 Q. Did you ever submit anything in</p> <p>23 writing with respect to Ed Carter at all in</p> <p>24 connection with a reference or in response to</p> <p>25 a reference to anyone? 12:25:05</p>
Page 656	Page 658
<p>1 Hesse</p> <p>2 give him a reference, it had something to do</p> <p>3 with the town and Chief Greg Decanio from the</p> <p>4 Islip Airport Police was going to call me in</p> <p>5 reference to something to do with Eddie 12:22:57</p> <p>6 Carter, and I told Eddie that I would only</p> <p>7 tell them the truth of why he was let go.</p> <p>8 Q. Did you speak to Decanio?</p> <p>9 A. At some point I did, yes.</p> <p>10 MR. NOVIKOFF: Can you spell that? 12:23:14</p> <p>11 THE WITNESS: I have no idea.</p> <p>12 MR. NOVIKOFF: D-E-C-A-N-I-O.</p> <p>13 Q. Did you speak with Decanio before</p> <p>14 or after you spoke to Carter about Decanio?</p> <p>15 A. After. 12:23:35</p> <p>16 Q. So Ed didn't call you before and</p> <p>17 say you need to speak with Decanio?</p> <p>18 A. I don't think so. He called me</p> <p>19 first and said that Greg would be calling me</p> <p>20 or to have me call Greg, and I talked to Greg 12:23:44</p> <p>21 Decanio after I spoke to Ed Carter.</p> <p>22 Q. What did you tell Greg Decanio?</p> <p>23 A. I told Greg that Eddie Carter is a</p> <p>24 good guy, that the reason why I had let him go</p> <p>25 was because of his sleeping on duty. I said 12:24:00</p>	<p>1 Hesse</p> <p>2 A. No.</p> <p>3 Q. Did you ever provide any</p> <p>4 references or respond to any reference</p> <p>5 requests with respect to Kevin Lamm? 12:25:10</p> <p>6 A. None.</p> <p>7 Q. Never spoke with anyone or</p> <p>8 communicated with anyone at the Lloyd Harbor</p> <p>9 Police Department?</p> <p>10 A. I did get a phone call from the 12:25:19</p> <p>11 Chief in Lloyd Harbor.</p> <p>12 Q. So when you said none it is not</p> <p>13 correct?</p> <p>14 A. It is correct.</p> <p>15 Q. You never spoke with the chief? 12:25:26</p> <p>16 A. I spoke to the chief.</p> <p>17 Q. Tell me about your call, tell me</p> <p>18 everything you recall in that discussion with</p> <p>19 the chief from Lloyd Harbor?</p> <p>20 A. I think he was served with a 12:25:36</p> <p>21 subpoena in reference to this case, and he</p> <p>22 wanted some details about what was going on,</p> <p>23 he didn't understand why. I said that I was</p> <p>24 being sued for some wrongful termination. And</p> <p>25 I said these were the names that were involved 12:25:53</p>

<p style="text-align: right;">Page 659</p> <p>1 Hesse</p> <p>2 with the suit, and he recognized I believe</p> <p>3 Kevin Lamm's name because I think Kevin was on</p> <p>4 their list for a full-time position. And they</p> <p>5 gave it to somebody else, but that was 12:26:07</p> <p>6 previous to me speaking to them.</p> <p>7 Q. Had you spoken to anyone at Lloyd</p> <p>8 Harbor prior to them calling you about the</p> <p>9 subpoena?</p> <p>10 A. No. 12:26:20</p> <p>11 Q. Did you tell them the reasons why</p> <p>12 you were being sued other than for generically</p> <p>13 wrongful termination?</p> <p>14 MR. NOVIKOFF: Objection to the</p> <p>15 form. 12:26:27</p> <p>16 A. No.</p> <p>17 Q. What else did you discuss with the</p> <p>18 Lloyd Harbor Chief at that time?</p> <p>19 A. I forget what his name is, but it</p> <p>20 turns out that he had his start in Ocean Beach 12:26:34</p> <p>21 when he was a seasonal police officer. So we</p> <p>22 talked about the good old days with Joe</p> <p>23 Loeffler as chief and the things that went on</p> <p>24 back in the day.</p> <p>25 Q. Anything else? 12:26:58</p>	<p style="text-align: right;">Page 661</p> <p>1 Hesse</p> <p>2 Q. How about the Southampton Village</p> <p>3 Police Department, did you ever communicate</p> <p>4 with them with respect to Kevin Lamm?</p> <p>5 A. No. 12:28:02</p> <p>6 Q. How about the Northport Village</p> <p>7 Police Department, did you ever communicate</p> <p>8 with them or anyone there with respect to</p> <p>9 Kevin Lamm?</p> <p>10 A. No. 12:28:06</p> <p>11 Q. Did you ever communicate with</p> <p>12 anyone at the Town of Islip Airport security</p> <p>13 guard group with respect to Kevin Lamm?</p> <p>14 A. No.</p> <p>15 Q. How about Joe Nofi, did you ever 12:28:19</p> <p>16 communicate with anyone with respect to a</p> <p>17 reference or respond to a request for a</p> <p>18 reference for Joe Nofi?</p> <p>19 A. Yes.</p> <p>20 Q. Who did you respond to or speak 12:28:28</p> <p>21 with?</p> <p>22 A. I believe I spoke to an</p> <p>23 investigator from the Collier County Sheriff's</p> <p>24 Department in Florida.</p> <p>25 Q. Who did you speak with there? 12:28:42</p>
<p style="text-align: right;">Page 660</p> <p>1 Hesse</p> <p>2 A. No.</p> <p>3 Q. Did you speak to anyone at</p> <p>4 Huntington Bay Police Department about Kevin</p> <p>5 Lamm? 12:27:08</p> <p>6 A. No.</p> <p>7 Q. Did you speak to anyone in the</p> <p>8 Ashroken Village Police Department?</p> <p>9 A. No.</p> <p>10 Q. How about Suffolk County Police 12:27:15</p> <p>11 Department with respect to Kevin Lamm?</p> <p>12 A. I believe his investigator had</p> <p>13 called me and wanted me to put something in</p> <p>14 writing on why he no longer worked for the</p> <p>15 department, and I told her the only thing that 12:27:29</p> <p>16 I would do is confirm dates of employment.</p> <p>17 Q. Did you do that in writing?</p> <p>18 A. I don't believe I ever did, no.</p> <p>19 Q. How come?</p> <p>20 A. I don't think that is what she 12:27:38</p> <p>21 wanted, so I wound up not doing it.</p> <p>22 Q. Did you ever submit anything in</p> <p>23 writing to Suffolk County Police Department</p> <p>24 with respect to Kevin Lamm?</p> <p>25 A. No. 12:27:51</p>	<p style="text-align: right;">Page 662</p> <p>1 Hesse</p> <p>2 A. I don't recall his name.</p> <p>3 Q. How long was the conversation?</p> <p>4 A. A couple of minutes.</p> <p>5 Q. Tell me everything that you recall 12:28:51</p> <p>6 that you spoke to him about?</p> <p>7 A. Well I was faxed a request to fill</p> <p>8 out some kind of form for reference, and all I</p> <p>9 did was confirm dates of employment and faxed</p> <p>10 it back. 12:29:12</p> <p>11 Q. Did you fill in any other</p> <p>12 sections?</p> <p>13 A. Specifically I don't recall if I</p> <p>14 filled out anything else other than that.</p> <p>15 Q. Did you cross out any of the 12:29:23</p> <p>16 sections?</p> <p>17 A. No.</p> <p>18 Q. Did you ever speak with anyone</p> <p>19 from Collier County?</p> <p>20 A. After I responded back by fax 12:30:03</p> <p>21 there was an investigator who did call me.</p> <p>22 Q. Do you recall that investigators</p> <p>23 name?</p> <p>24 A. No.</p> <p>25 Q. What did you discuss with the 12:30:10</p>

<p style="text-align: right;">Page 663</p> <p>1 Hesse 2 investigator? 3 A. He had asked me if there was any 4 other information that I could provide. I 5 told him no, but I did advise him about the 12:30:17 6 lawsuit against me. 7 Q. Why did you advise him about the 8 lawsuit against you? 9 A. Because I thought it was pertinent 10 to advise him. 12:30:29 11 Q. Why? 12 A. Because it is public information 13 that I am being sued by this individual. 14 Q. So is it your understanding that 15 at the time you spoke with the investigator 12:30:40 16 that it was public information that you were 17 being sued? 18 A. Yes, it was. 19 Q. You actually had been served with 20 a copy of the lawsuit? 12:30:51 21 A. Yes. 22 Q. Positive about that? 23 A. I am pretty sure, yes. 24 MR. GOODSTADT: Would you mark 25 this document as Hesse Exhibit 28, 12:31:03</p>	<p style="text-align: right;">Page 665</p> <p>1 Hesse 2 A. Yes. 3 Q. Was it Donohoe? 4 A. Yes. 5 Q. He has a date of 9/15/2006, do you 12:32:31 6 see that? 7 A. Yes. 8 MR. NOVIKOFF: Where is that? 9 MR. GOODSTADT: On the right side 10 next to Donohoe's signature; I am talking 12:32:42 11 about 150. 12 MR. NOVIKOFF: I don't see a copy 13 on 150. 14 MR. GOODSTADT: Let me see your 15 copy. 12:32:54 16 MR. NOVIKOFF: I see the comment, 17 I don't see the signature. Okay, you got 18 it. 19 Q. You see it is dated 9/15/2006, do 20 you see that? 12:33:09 21 A. Yes. 22 Q. Any reason to believe that that 23 was not the date that you spoke with him? 24 A. I don't know. 25 Q. In fact 9/15/2006 was six months 12:33:15</p>
<p style="text-align: right;">Page 664</p> <p>1 Hesse 2 Employment, Collier County Sheriff's 3 Office, Employment Reference Prior 4 Experience. 5 (Hesse Exhibit 28, Employment, 12:31:04 6 Collier County Sheriff's Office, 7 Employment Reference Prior Experience, 8 marked for identification, as of this 9 date.) 10 Q. I placed in front of Mr. Hesse 12:31:39 11 what has been marked as Exhibit 28, a 12 four-page exhibit bearing Bates CCSO 147 13 through 150. I ask you to look at pages 149 14 and 150? 15 A. Okay. 12:32:02 16 Q. Do you recall, turn to page 150, 17 do you see a signature there? 18 A. A signature. 19 Q. On the bottom left, do you see 20 that, it says Denado or Donohoe, do you see 12:32:14 21 that signature? 22 A. Yes, I do. 23 Q. Does that refresh your 24 recollection as to the name of the person that 25 you spoke with? 12:32:29</p>	<p style="text-align: right;">Page 666</p> <p>1 Hesse 2 before you were actually sued; is that 3 correct? 4 MR. NOVIKOFF: Objection to the 5 form of the question. To what you mean 12:33:25 6 by actually sued. 7 Q. Sued by Mr. Nofi? 8 MR. CONNOLLY: Same objection. 9 A. Sued or served with a notice of 10 claim, I put them together. 12:33:36 11 Q. Did you testify two times, two 12 sessions ago that you know the difference 13 between a lawsuit and a notice of claim? 14 A. I might have put them together as 15 far as being served a notice of claim as being 12:33:47 16 sued. 17 Q. Is a notice of claim publicly 18 available information? 19 A. I don't know. 20 Q. So what did you mean before when 12:33:53 21 you said I thought it was relevant because it 22 was publicly available information? 23 A. Everybody was knowing about it, 24 everybody knew about it at that point. 25 Q. Who is everybody? 12:34:02</p>

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<p>1 Hesse</p> <p>2 A. I don't know, it was on the news,</p> <p>3 it was everywhere.</p> <p>4 Q. It is your testimony that it was</p> <p>5 on the news that by the time that you spoke 12:34:10</p> <p>6 with Mr. Donohoe that you were being sued by</p> <p>7 Joe Nofi; is that your testimony?</p> <p>8 A. I knew it was coming at least.</p> <p>9 Q. The question, sir, is at the time</p> <p>10 that you spoke with Mr. Donohoe was it on the 12:34:23</p> <p>11 news that you were being sued by Joe Nofi?</p> <p>12 A. You know what, I just don't</p> <p>13 recall.</p> <p>14 Q. And here you testified -- here you</p> <p>15 wrote or told him at least that you had 12:34:34</p> <p>16 dismissed Mr. Nofi; is that correct?</p> <p>17 MR. CONNOLLY: Objection.</p> <p>18 MR. NOVIKOFF: Objection.</p> <p>19 A. No.</p> <p>20 Q. If you look on page 149, he checks 12:34:41</p> <p>21 off dismissed?</p> <p>22 MR. NOVIKOFF: Okay, 149.</p> <p>23 MR. GOODSTADT: Yes.</p> <p>24 MR. NOVIKOFF: I will stipulate</p> <p>25 that on 149 there is a check mark that 12:34:54</p>	<p>1 Hesse</p> <p>2 is not what I told him.</p> <p>3 MR. NOVIKOFF: You can add one</p> <p>4 more minute based upon what I am about to</p> <p>5 say. But I would think it would be 12:35:45</p> <p>6 logical that if one is no longer working</p> <p>7 at the department and one is suing for</p> <p>8 wrongful termination, that that person</p> <p>9 has been dismissed or otherwise</p> <p>10 constructively discharged. 12:35:58</p> <p>11 You can have one more minute based</p> <p>12 on the colloquy.</p> <p>13 MR. GOODSTADT: I don't know why</p> <p>14 you added the colloquy.</p> <p>15 MR. NOVIKOFF: I couldn't help 12:36:07</p> <p>16 myself.</p> <p>17 Q. Did you ever speak with Nofi about</p> <p>18 your discussion with Donohoe or anyone at the</p> <p>19 Collier County Sheriff's office?</p> <p>20 A. No. 12:36:20</p> <p>21 Q. Did you ever let Nofi know that</p> <p>22 someone had reached out to you to request a</p> <p>23 reference on his before?</p> <p>24 MR. NOVIKOFF: Objection.</p> <p>25 A. No. 12:36:32</p>
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<p>1 Hesse</p> <p>2 says dismissed.</p> <p>3 Q. Do you recall telling him that you</p> <p>4 dismissed Joe Nofi?</p> <p>5 A. No. 12:35:00</p> <p>6 Q. Then the explanation you see he</p> <p>7 writes, dismissed, applicant presently suing</p> <p>8 the Police Department for wrongful</p> <p>9 termination. Do you see that?</p> <p>10 A. I do see that, yes. 12:35:08</p> <p>11 Q. Do you recall telling him that you</p> <p>12 dismissed Mr. Nofi and that he is presently</p> <p>13 suing the Police Department for wrongful</p> <p>14 termination?</p> <p>15 MR. NOVIKOFF: Objection. 12:35:20</p> <p>16 Compound.</p> <p>17 MR. CONNOLLY: Objection.</p> <p>18 A. That is not what I recall telling</p> <p>19 him.</p> <p>20 Q. What do you recall telling him? 12:35:24</p> <p>21 A. I told him that he no longer works</p> <p>22 for the department, and I will confirm dates</p> <p>23 of employment, and that he is suing the</p> <p>24 department for wrongful termination. But that</p> <p>25 is not the reason why he was terminated, that 12:35:35</p>	<p>1 Hesse</p> <p>2 Q. Did you ever submit anything in</p> <p>3 writing to Collier County with respect to</p> <p>4 Mr. Nofi?</p> <p>5 A. I was sent a one-page reference, 12:36:45</p> <p>6 questionnaire, and I think I only put on there</p> <p>7 that I confirmed dates of employment.</p> <p>8 Q. Did you ever speak with</p> <p>9 Mr. Donohoe other than for that one telephone</p> <p>10 conference that you already testified to? 12:37:12</p> <p>11 A. No. I believe that was the only</p> <p>12 time.</p> <p>13 Q. Did you ever speak to anyone else</p> <p>14 from Collier County on behalf of Mr. Nofi?</p> <p>15 A. No. 12:37:23</p> <p>16 Q. Did you ever speak to anyone in</p> <p>17 the Suffolk County Department of Health with</p> <p>18 respect to Joe Nofi?</p> <p>19 A. Yes.</p> <p>20 Q. When? 12:37:29</p> <p>21 A. I don't know when.</p> <p>22 Q. After his termination?</p> <p>23 A. Yes.</p> <p>24 Q. What did you speak to -- strike</p> <p>25 that. 12:37:38</p>

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<p>1 Hesse</p> <p>2 Do you know what year it was that</p> <p>3 you spoke with that person?</p> <p>4 A. No.</p> <p>5 Q. Who was it that you spoke with? 12:37:41</p> <p>6 A. It was a female, I believe -- I</p> <p>7 don't know if they were in actual health</p> <p>8 services or cigarette and tobacco section.</p> <p>9 They wanted me to give a reference over the</p> <p>10 phone which I didn't do, and I asked them if 12:38:03</p> <p>11 they want a reference they would have to put</p> <p>12 something on department letterhead and mail it</p> <p>13 to me, and that was the extent of the</p> <p>14 conversation.</p> <p>15 Q. Have you ever given a reference 12:38:17</p> <p>16 for any officers other than for the five</p> <p>17 plaintiffs?</p> <p>18 A. I may have over the years.</p> <p>19 Q. Have you ever given any other</p> <p>20 information other than for dates of 12:38:25</p> <p>21 employment?</p> <p>22 A. I may have.</p> <p>23 Q. Did you provide Paul Trosko with a</p> <p>24 reference?</p> <p>25 A. I may have. 12:38:33</p>	<p>1 Hesse</p> <p>2 A. I think somebody called in from</p> <p>3 there too, but no reference was given.</p> <p>4 Q. Tell me everything you recall on</p> <p>5 the conversation you had with the Suffolk 12:39:27</p> <p>6 County SPCA with respect to Nofi?</p> <p>7 A. I just vaguely remember something</p> <p>8 about him applying for the -- whatever it is,</p> <p>9 SPCA. But you know what, to tell you the</p> <p>10 truth I don't think anybody called me directly 12:39:42</p> <p>11 in reference to a reference.</p> <p>12 Q. Did you ever provide a reference?</p> <p>13 A. No.</p> <p>14 Q. How about the Riverhead Police</p> <p>15 Department, did you ever speak with anyone 12:39:57</p> <p>16 there with respect to Joe Nofi?</p> <p>17 A. I think somebody did call in.</p> <p>18 Q. Tell me everything that you recall</p> <p>19 about that conversation?</p> <p>20 A. Just the fact that there was a 12:40:09</p> <p>21 call. I think it was the same time with Frank</p> <p>22 Fiorillo, and no reference was given.</p> <p>23 Q. What did you tell the person?</p> <p>24 A. You know, I believe there was a</p> <p>25 message left for me to call the chief back and 12:40:20</p>
Page 672	Page 674
<p>1 Hesse</p> <p>2 Q. Substantive reference other than</p> <p>3 for dates of employment?</p> <p>4 A. I may have.</p> <p>5 Q. Was it a positive reference? 12:38:38</p> <p>6 A. I would think so, yes.</p> <p>7 Q. Did you ever have any</p> <p>8 communications with anyone in the Suffolk</p> <p>9 County Police Department with respect to Joe</p> <p>10 Nofi? 12:38:49</p> <p>11 A. In the Suffolk County Police</p> <p>12 Department?</p> <p>13 Q. Yes.</p> <p>14 MR. NOVIKOFF: Independent of a</p> <p>15 reference -- 12:38:54</p> <p>16 MR. GOODSTADT: No, in connection</p> <p>17 with a reference.</p> <p>18 A. No.</p> <p>19 Q. How about anyone in the</p> <p>20 Easthampton Bay Constable Police Department? 12:39:02</p> <p>21 A. No.</p> <p>22 Q. How about the Easthampton Marine</p> <p>23 Patrol?</p> <p>24 A. No.</p> <p>25 Q. How about the Suffolk County SPCA? 12:39:11</p>	<p>1 Hesse</p> <p>2 when I -- I called back, I didn't get the</p> <p>3 chief and I never got a call back. So I don't</p> <p>4 think anything was ever said or done.</p> <p>5 Q. So you never spoke with anyone? 12:40:31</p> <p>6 A. No.</p> <p>7 MR. CONNOLLY: Who is this?</p> <p>8 Q. Riverhead Police Department.</p> <p>9 A. I don't really recall any</p> <p>10 conversations that took place with them. 12:40:41</p> <p>11 Q. Now about the Northport Police</p> <p>12 Department with respect to Joe Nofi?</p> <p>13 A. No.</p> <p>14 Q. How about the Smithtown Bay</p> <p>15 Constable with respect to Joe Nofi? 12:40:53</p> <p>16 A. No. Never.</p> <p>17 Q. How about with the Shelter Island</p> <p>18 Police with respect to Joe Nofi?</p> <p>19 A. No.</p> <p>20 Q. How about the Amtrak Police with 12:41:00</p> <p>21 respect to Joe Nofi?</p> <p>22 A. No, nothing.</p> <p>23 Q. How about the Quogue Police with</p> <p>24 respect to Joe Nofi?</p> <p>25 A. Nothing. 12:41:11</p>

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1 Hesse

2 **Q. How about the North Hempstead Bay**

3 **Constable with respect to Joe Nofi?**

4 A. Nothing.

5 **Q. How about the Babylon Bay 12:41:21**

6 **Constable?**

7 A. Nothing.

8 **Q. Any others that you can recall and**

9 **any other potential employers that you can**

10 **recall discussing Joe Nofi with? 12:41:30**

11 A. No.

12 **Q. How about Frank Fiorillo, do you**

13 **recall anybody else other than for the ones**

14 **that I asked you about?**

15 A. No. 12:41:40

16 **Q. How about with respect to Ed**

17 **Carter, do you recall anybody else other than**

18 **for Decanio?**

19 A. No.

20 **Q. How about Kevin Lamm, do you 12:41:48**

21 **recall speaking with anybody on behalf of**

22 **Kevin Lamm's application for a job?**

23 A. Other than Suffolk County Police

24 Department, no.

25 **Q. How about Tommy Snyder? 12:42:00**

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1 Hesse

2 A. Never.

3 **Q. I think we touched upon last time**

4 **your post on the blog. Do you know what I**

5 **mean when I say the blog? 12:42:21**

6 A. Yes.

7 **Q. Subsequently you provided**

8 **information in response to interrogatories**

9 **identifying this post that you made; is that**

10 **correct? 12:42:30**

11 A. Yes.

12 **Q. Is that all the posts that you**

13 **made, the ones that were in response to the**

14 **interrogatories?**

15 A. Yes. 12:42:36

16 MR. NOVIKOFF: How much time is

17 left.

18 THE VIDEOGRAPHER: Eight minutes.

19 MR. NOVIKOFF: Have you hit the

20 250 yet. 12:42:53

21 MR. GOODSTADT: I don't know.

22 MR. NOVIKOFF: Off the record.

23 THE VIDEOGRAPHER: The time is

24 12:44, we are off the record.

25 (Recess taken.) 12:43:09

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1 Hesse

2 THE VIDEOGRAPHER: The time is

3 12:45, we are on the record.

4 **Q. Mr. Hesse, you have posted on the**

5 **blog from your home computer; is that correct? 12:43:36**

6 A. Yes.

7 **Q. Do you know if anyone else has**

8 **posted on the blog from your home computer**

9 **other than for you?**

10 A. Not that I am aware of. 12:43:44

11 **Q. And the same thing about the Ocean**

12 **Beach Police Department computer, you posted**

13 **there on the blog?**

14 A. I may have, yes.

15 **Q. Are you aware of anybody else 12:43:53**

16 **posting on the blog from the Ocean Beach**

17 **Police Department computer other than for**

18 **yourself?**

19 A. Not yet.

20 **Q. What do you mean by not yet? 12:44:02**

21 A. I am assuming I will find out.

22 MR. GOODSTADT: I have nothing

23 further at this time.

24 MR. CONNOLLY: You can ask one

25 more, his responses are based upon his 12:44:13

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1 Hesse

2 recollection of blog entries.

3 MR. GOODSTADT: Okay.

4 MR. NOVIKOFF: Its up to Andrew if

5 he wants to ask that question. 12:44:26

6 MR. GOODSTADT: I am going to

7 leave his responses where they are and go

8 through what I need to on redirect if

9 necessary.

10 THE VIDEOGRAPHER: The time is 12:44:38

11 12:46, we are off the record.

12 (Time noted 12:46 p.m.)

13 (Lunch recess taken.)

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<p>1 Hesse</p> <p>2 AFTERNOON SESSION</p> <p>3 (Time noted: 1:38 p.m.)</p> <p>4 GEORGE HESSE, resumed and</p> <p>5 testified as follows:</p> <p>6 EXAMINATION BY (Cont'd.)</p> <p>7 MR. NOVIKOFF:</p> <p>8 THE VIDEOGRAPHER: The time is</p> <p>9 1:38, we are on the record.</p> <p>10 Q. Good afternoon, Mr. Hesse, how are you? 13:36:34</p> <p>11</p> <p>12 A. Good.</p> <p>13 Q. As you probably are aware I</p> <p>14 represent all the Village defendants besides</p> <p>15 you. As you are probably aware I represent 13:36:43</p> <p>16 all the Village defendants except you, you are</p> <p>17 aware of that?</p> <p>18 A. Yes.</p> <p>19 Q. Have you and I ever had</p> <p>20 discussions about the substance or the merits 13:37:00</p> <p>21 or lack thereof of the action that brings us</p> <p>22 here today?</p> <p>23 A. No.</p> <p>24 Q. Have we ever exchanged written</p> <p>25 communications? 13:37:08</p>	<p>1 Hesse</p> <p>2 you doing it in any capacity associated with</p> <p>3 your position as Acting Chief of Police?</p> <p>4 MR. GOODSTADT: Objection.</p> <p>5 A. No. 13:38:25</p> <p>6 Q. Did you advise Mayor Rogers while</p> <p>7 she was still mayor but subsequent to April 2,</p> <p>8 2006 that you were entering blog entries?</p> <p>9 A. No.</p> <p>10 Q. Did you advise Trustee Loeffler 13:38:37</p> <p>11 subsequent to April 2nd and while he was still</p> <p>12 a trustee member that you were entering blog</p> <p>13 entries on the Schwartz Report concerning</p> <p>14 Ocean Beach issues?</p> <p>15 A. No. 13:38:55</p> <p>16 Q. To your knowledge was anyone, to</p> <p>17 your knowledge was any trustee ever aware</p> <p>18 between April 2nd and the time that Mayor</p> <p>19 Loeffler was -- withdrawn.</p> <p>20 Between April 2nd and the time 13:39:12</p> <p>21 that Mayor Loeffler was started as mayor in</p> <p>22 the summer of 2006 are you aware of any</p> <p>23 trustee that was aware that you were blogging</p> <p>24 on the Schwartz Report concerning Ocean Beach?</p> <p>25 MR. GOODSTADT: Objection. 13:39:28</p>
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<p>1 Hesse</p> <p>2 A. No.</p> <p>3 Q. I am going to ask you a series of</p> <p>4 questions, I want to start off with asking you</p> <p>5 some questions about the blog, but since Mr. 13:37:19</p> <p>6 Goodstadt didn't ask you about any specific</p> <p>7 blog entries, I am not going to. But let me</p> <p>8 just ask you a few questions about the blog.</p> <p>9 To the extent that you entered,</p> <p>10 you made blog entries subsequent to the April 13:37:37</p> <p>11 2nd meeting, and you understand what I am</p> <p>12 talking about by the April 2nd meeting?</p> <p>13 A. Yes.</p> <p>14 Q. April 2, 2006?</p> <p>15 A. Yes. 13:37:51</p> <p>16 Q. Let me rephrase the question.</p> <p>17 To the extent that you made blog</p> <p>18 entries in the Schwartz Report subsequent to</p> <p>19 April 2, 2006, were you doing that as part of</p> <p>20 your official duties as Acting Chief of 13:38:03</p> <p>21 Police?</p> <p>22 A. No.</p> <p>23 Q. With regard to any entries in the</p> <p>24 Schwartz Report or any other blog concerning</p> <p>25 Ocean Beach subsequent to April 2, 2006 were 13:38:14</p>	<p>1 Hesse</p> <p>2 A. I was not aware of anybody that</p> <p>3 would know, no.</p> <p>4 Q. You certainly didn't tell anyone,</p> <p>5 did you? 13:39:33</p> <p>6 A. No.</p> <p>7 Q. Well, since there is an objection</p> <p>8 let me rephrase the question.</p> <p>9 Did you tell any trustee between</p> <p>10 April 2nd and the date that Mayor Loeffler 13:39:40</p> <p>11 started as mayor that you were blogging on the</p> <p>12 Schwartz Report concerning Ocean Beach?</p> <p>13 A. No.</p> <p>14 Q. Prior to receiving the -- prior to</p> <p>15 being served with the complaint, the Federal 13:39:57</p> <p>16 court complaint in this matter did you ever</p> <p>17 advise mayor -- former Mayor Rogers that you</p> <p>18 were blogging on the Schwartz Report</p> <p>19 concerning Ocean Beach?</p> <p>20 A. No. 13:40:10</p> <p>21 Q. Did you ever advise Mayor Loeffler</p> <p>22 prior to serving -- getting served with the</p> <p>23 summons and complaint in the action that you</p> <p>24 were blogging on the Schwartz Report</p> <p>25 concerning Ocean Beach? 13:40:26</p>

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<p>1 Hesse</p> <p>2 A. No.</p> <p>3 Q. Did you advise any trustee member</p> <p>4 prior to the time that you were served with 13:40:31</p> <p>5 the summons and complaint that you were</p> <p>6 blogging on the Schwartz Report concerning</p> <p>7 Ocean Beach?</p> <p>8 A. No.</p> <p>9 Q. Let's look at the exhibit that Mr.</p> <p>10 Goodstadt showed you, Exhibit 28, Deposition 13:41:09</p> <p>11 Exhibit 28, CCSO 147 through CCSO 150.</p> <p>12 Specifically let's look at 149 and 150?</p> <p>13 A. Yes.</p> <p>14 Q. Did you draft this document?</p> <p>15 A. No. 13:41:34</p> <p>16 Q. Prior to today have you seen this</p> <p>17 document?</p> <p>18 A. No.</p> <p>19 Q. So let's be more specific, the</p> <p>20 line: Rate the applicant in the following 13:41:44</p> <p>21 areas. You didn't draw that line; right?</p> <p>22 A. No.</p> <p>23 Q. Now, Mr. Goodstadt asked you a</p> <p>24 question as to when you did this, when you</p> <p>25 spoke -- when you spoke to the investigator, 13:42:02</p>	<p>1 Hesse</p> <p>2 knowledge as you sit here today as to what</p> <p>3 claims if any any of the plaintiffs were</p> <p>4 making in their respective notice of claims?</p> <p>5 A. It was my belief that it was for 13:43:14</p> <p>6 some kind of illegal termination of sorts, and</p> <p>7 then many other accusations that just didn't</p> <p>8 make sense.</p> <p>9 Q. A notice of claim is filed with</p> <p>10 the village; correct? 13:43:36</p> <p>11 A. Yes.</p> <p>12 Q. And a notice of claim is filed</p> <p>13 specifically with the clerk of the village; is</p> <p>14 that correct?</p> <p>15 MR. GOODSTADT: Objection. 13:43:43</p> <p>16 A. Yes.</p> <p>17 Q. To your knowledge is a notice of</p> <p>18 claim a document that an individual could file</p> <p>19 a FOIA request to ascertain?</p> <p>20 MR. GOODSTADT: Objection. 13:43:56</p> <p>21 MR. CONNOLLY: Objection.</p> <p>22 A. You know, I believe they can.</p> <p>23 Q. Are you aware of any law that</p> <p>24 requires a notice of claim be kept</p> <p>25 confidential and hidden from the public? 13:44:08</p>
Page 684	Page 686
<p>1 Hesse</p> <p>2 when you filled out whatever form you</p> <p>3 indicated that you filled out. Do you recall</p> <p>4 those questions?</p> <p>5 A. Yes. 13:42:09</p> <p>6 Q. Now, the date of this document,</p> <p>7 150, is 9/15/2006. Would you agree with me</p> <p>8 that given the fact that the Federal lawsuit</p> <p>9 was not filed until March 2007, that you had</p> <p>10 your conversation with Collier County prior to 13:42:30</p> <p>11 the filing of the Federal lawsuit?</p> <p>12 A. Yes.</p> <p>13 Q. And if I represented to you that</p> <p>14 the date of the notice of claim was on or</p> <p>15 about June 30, 2006, would you agree with me 13:42:43</p> <p>16 that based upon that representation you would</p> <p>17 have had a conversation with Collier County</p> <p>18 after becoming aware of the notice of claim?</p> <p>19 A. Yes.</p> <p>20 Q. In fact the notice of claim was in 13:42:56</p> <p>21 part a claim that the five plaintiffs were</p> <p>22 unlawfully terminated; correct?</p> <p>23 MR. GOODSTADT: Objection.</p> <p>24 A. Yes.</p> <p>25 Q. What was your -- what is your 13:43:04</p>	<p>1 Hesse</p> <p>2 A. Not that I am aware of.</p> <p>3 MR. GOODSTADT: Objection.</p> <p>4 Q. Now, let's look at page 150?</p> <p>5 A. Uh-hum. 13:44:40</p> <p>6 Q. Whoever wrote this document states</p> <p>7 under the line: Please provide any additional</p> <p>8 information that you feel is important.</p> <p>9 And they write as follows: Deputy</p> <p>10 Chief Hesse states quote, his Police 13:44:52</p> <p>11 Department is being sued by the applicant for</p> <p>12 quote wrongful (job) termination close quote.</p> <p>13 Do you see that?</p> <p>14 A. Yes.</p> <p>15 Q. Did you state to whomever you 13:45:07</p> <p>16 spoke to at Collier County that the Police</p> <p>17 Department was being sued?</p> <p>18 A. Yes.</p> <p>19 Q. Did you state to the investigator</p> <p>20 or whomever you spoke to at Collier County 13:45:17</p> <p>21 that Mr. Nofi was suing the department for</p> <p>22 wrongful termination?</p> <p>23 A. Yes.</p> <p>24 Q. Whoever wrote this document then</p> <p>25 goes on to say: Chief Hesse states that he 13:45:28</p>

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1 Hesse
2 cannot comment on the applicant's reason he
3 was let go or his job history at the PD due to
4 the ongoing lawsuit.
5 Do you see that? 13:45:40
6 A. Yes.
7 Q. Now, did you tell whomever you
8 spoke to at Collier County that you can't
9 comment on the applicant's reasons as to why
10 he was let go? 13:45:51
11 A. Yes.
12 Q. Did you tell whomever you spoke to
13 at Collier County that you can't comment on
14 the applicant's job history at the Police
15 Department? 13:46:00
16 A. Yes.
17 Q. And did you tell whomever you
18 spoke to at Collier County that you could not
19 discuss the reasons Mr. Nofi was let go or his
20 job history due to the ongoing lawsuit? 13:46:12
21 A. Yes.
22 Q. Now, did you speak with any lawyer
23 prior to giving this information to Collier
24 County as to what you could say with regard to
25 a reference request? 13:46:28

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1 Hesse
2 A. No.
3 Q. Did you speak with Mayor Loeffler?
4 A. No.
5 Q. Did you speak with former Mayor 13:46:33
6 Rogers?
7 A. No.
8 Q. Did you speak with any trustee?
9 A. No.
10 Q. Now, you indicated in response to 13:46:38
11 Mr. Goodstadt's question that in your opinion
12 you gave neutral references; is that correct?
13 A. Uh-hum.
14 MR. GOODSTADT: Objection. His
15 testimony is what it is. 13:46:50
16 MR. NOVIKOFF: Okay.
17 Q. Let me state this. In your
18 opinion the references that you gave with
19 regard -- putting aside Mr. Carter for the
20 time being, the references that you gave with 13:46:59
21 regard to the other four plaintiffs, to the
22 extent that you gave any references -- you
23 know, withdrawn, reference is a bad word.
24 To the extent that you had any
25 communications with regard to any prospective 13:47:11

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1 Hesse
2 employers of the plaintiffs with the exception
3 of Mr. Carter, would you characterize your
4 comments as being neutral?
5 MR. GOODSTADT: Objection. 13:47:22
6 A. Yes.
7 Q. Sir, if in fact you wanted to give
8 a negative reference with regard to for
9 example to Frank Fiorillo, what would you have
10 said to a prospective employer? 13:47:31
11 MR. GOODSTADT: Objection.
12 A. I would have said that he was
13 insubordinate and I would have gave him -- I
14 probably would have given him an example or
15 two. 13:47:44
16 Q. The same thing with regard to Mr.
17 Nofi, if you were to give a negative reference
18 with regard to Mr. Nofi what would you have
19 said?
20 MR. GOODSTADT: Objection. 13:47:55
21 A. I would have said that, like I
22 stated earlier, he had poor work performance,
23 poor appearance and so on, along those lines.
24 Q. Let's stay with Mr. Nofi for a
25 minute. To the extent and I don't recall your 13:48:09

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1 Hesse
2 testimony, I am not going to try to repeat it
3 here, to the extent that you gave any
4 references at all with regard to Mr. Nofi
5 subsequent to April 2, 2006, did you give that 13:48:19
6 type of a negative reference?
7 A. No.
8 MR. CONNOLLY: Objection.
9 Q. Did you give any type of negative
10 reference? 13:48:31
11 A. No.
12 Q. Same question with regard to Mr.
13 Fiorillo?
14 MR. GOODSTADT: Objection.
15 A. No. 13:48:37
16 Q. With regard to Mr. Snyder, to the
17 extent that you gave any, made any
18 communications with any prospective employers
19 of Mr. Snyder after April 2, 2006, if you were
20 going to give a negative reference what would 13:48:51
21 you have said?
22 MR. GOODSTADT: Objection.
23 A. I would have said that he had
24 somewhat of a poor attitude. His work
25 performance was slipping. That tours that he 13:49:01

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<p>1 Hesse</p> <p>2 was scheduled for he was not showing up for.</p> <p>3 Q. Did you give that type of -- did</p> <p>4 you communicate those opinions to any</p> <p>5 prospective employer to the best of your 13:49:13</p> <p>6 recollection?</p> <p>7 A. No.</p> <p>8 Q. How about with regard to Mr. Lamm,</p> <p>9 to the extent that you had any communications</p> <p>10 with a prospective employer after April 2, 13:49:21</p> <p>11 2006 and you were inclined to give a negative</p> <p>12 reference, what would that negative have been?</p> <p>13 MR. GOODSTADT: Objection.</p> <p>14 A. I would have said that he had a</p> <p>15 poor attitude, shows no discretion, generally 13:49:36</p> <p>16 angry, and insubordinate.</p> <p>17 Q. Did you make -- did you</p> <p>18 communicate those opinions to any prospective</p> <p>19 employer that you were aware of?</p> <p>20 A. No. 13:49:54</p> <p>21 Q. So let's go back to what Mr.</p> <p>22 Goodstadt brought out from you during his</p> <p>23 testimony. You acknowledged, and correct me</p> <p>24 if I am wrong, that at least that on those</p> <p>25 tapes -- withdrawn. 13:50:06</p>	<p>1 Hesse</p> <p>2 anything about them to any prospective</p> <p>3 employer. So, you know, I was just angry at</p> <p>4 that moment.</p> <p>5 MR. GOODSTADT: Do we have an 13:51:12</p> <p>6 agreement that I don't have to move to</p> <p>7 strike anything?</p> <p>8 MR. NOVIKOFF: Yes, until such</p> <p>9 time as you need to.</p> <p>10 MR. GOODSTADT: Well it is 13:51:21</p> <p>11 preserved. I don't have to do it today.</p> <p>12 MR. NOVIKOFF: Yes.</p> <p>13 Q. To the extent Mr. Goodstadt</p> <p>14 believes that you were threatening to do</p> <p>15 something in those tapes with regard to their 13:51:31</p> <p>16 law enforcement careers, did you take any</p> <p>17 action in furtherance of that?</p> <p>18 MR. CONNOLLY: Objection.</p> <p>19 MR. GOODSTADT: Objection.</p> <p>20 A. No. 13:51:43</p> <p>21 Q. Was it your intent on those tapes</p> <p>22 to communicate that you were going to</p> <p>23 affirmatively take any action to harm their</p> <p>24 careers?</p> <p>25 A. No. 13:51:55</p>
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<p>1 Hesse</p> <p>2 You acknowledged on those tapes</p> <p>3 that Mr. Goodstadt played for you, for us in</p> <p>4 the morning, that you did make statements</p> <p>5 concerning Lamm, Fiorillo and Nofi's law 13:50:17</p> <p>6 enforcement careers; correct?</p> <p>7 A. Yes.</p> <p>8 Q. And in fact in sum or substance</p> <p>9 you had said to whoever you were speaking to</p> <p>10 that those -- that their law enforcement 13:50:31</p> <p>11 careers were over; is that correct?</p> <p>12 A. Yes.</p> <p>13 Q. What did you mean by that as you</p> <p>14 heard it on the tape?</p> <p>15 MR. GOODSTADT: Objection. 13:50:40</p> <p>16 A. I was angry.</p> <p>17 MR. CONNOLLY: Objection.</p> <p>18 Q. I understand.</p> <p>19 A. I was angry at the things, at the</p> <p>20 acquisitions that they were making. But as 13:50:47</p> <p>21 far as their law enforcement careers are over,</p> <p>22 they are just going to remain where they are</p> <p>23 and that is what I hoped. And really that was</p> <p>24 it. There was no threats made. I didn't do</p> <p>25 anything that would hurt them. I never said 13:51:00</p>	<p>1 Hesse</p> <p>2 Q. Now, Mr. Goodstadt inquired with</p> <p>3 you with regard to various eyewitness</p> <p>4 statements that had been filed with the</p> <p>5 village concerning the Halloween incident, do 13:52:42</p> <p>6 you recall that?</p> <p>7 A. Yes.</p> <p>8 Q. I think he said, he asked you did</p> <p>9 you think it was strange that no one who put</p> <p>10 in an eyewitness statement made reference to a 13:52:53</p> <p>11 pool cue; correct?</p> <p>12 A. Yes.</p> <p>13 Q. I don't recall what your answer is</p> <p>14 and frankly for purposes of my question I</p> <p>15 don't care what your answer was. Let's look 13:53:03</p> <p>16 at the Exhibit 14?</p> <p>17 MR. GOODSTADT: Which is Exhibit</p> <p>18 14?</p> <p>19 Q. This is the memo from Steve Jaeger</p> <p>20 to Ed Paradiso? 13:53:34</p> <p>21 MR. CONNOLLY: You are going to</p> <p>22 have to give him a copy.</p> <p>23 MR. NOVIKOFF: I thought the</p> <p>24 reporter would have brought it. So we</p> <p>25 are continuing. 13:53:54</p>

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<p>1 Hesse</p> <p>2 MR. GOODSTADT: I don't know.</p> <p>3 MR. NOVIKOFF: Do you have a clean</p> <p>4 copy?</p> <p>5 MR. CONNOLLY: It has my 13:54:02</p> <p>6 handwriting on it.</p> <p>7 MR. NOVIKOFF: It says Exhibit 14.</p> <p>8 Can you show Mr. Goodstadt, I just --</p> <p>9 MR. GOODSTADT: That is fine.</p> <p>10 Q. I am going to show you what I 13:54:17</p> <p>11 represent to be marked as Exhibit 14, I will</p> <p>12 note for the record that Mr. -- your counsel's</p> <p>13 handwriting is on the bottom of that page</p> <p>14 indicating that it is Exhibit 14.</p> <p>15 Now, would you characterize this 13:54:29</p> <p>16 as an eyewitness statement, or would you</p> <p>17 characterize this as a complaint to the chief</p> <p>18 concerning an action taken against Gary</p> <p>19 Bosetti by the chief?</p> <p>20 A. I took it as a complaint filed to 13:54:43</p> <p>21 the chief about the actions that the chief</p> <p>22 took against Gary Bosetti.</p> <p>23 Q. Does Mr. Jaeger in this letter</p> <p>24 indicate at all that he was a witness to the</p> <p>25 entirety of the altercation involving those 13:54:56</p>	<p>1 Hesse</p> <p>2 Q. Now I am just going to ask you to</p> <p>3 read Mr. Wyckoff's statement to yourself, on</p> <p>4 the front and then it continues on the back.</p> <p>5 Then I am going to ask you a series of 13:56:24</p> <p>6 questions about that.</p> <p>7 A. Okay.</p> <p>8 Q. Did Mr. Wyckoff indicate in his</p> <p>9 statement that he was a witness from the</p> <p>10 entire altercation involving Gary Bosetti from 13:57:22</p> <p>11 the moment it started to the moment it ended?</p> <p>12 MR. GOODSTADT: Objection.</p> <p>13 A. With Gary himself -- not entirely,</p> <p>14 no.</p> <p>15 Q. In fact am I correct in my reading 13:57:34</p> <p>16 of this that at some point in time Mr. Wyckoff</p> <p>17 said that being that he was a bouncer for many</p> <p>18 years he went and grabbed one of the alleged</p> <p>19 victims and forced him out the front door;</p> <p>20 yes? 13:57:52</p> <p>21 A. Yes.</p> <p>22 Q. So I am correct in reading, that</p> <p>23 is what I read?</p> <p>24 A. Yes.</p> <p>25 MR. GOODSTADT: Objection. 13:57:59</p>
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<p>1 Hesse</p> <p>2 three individuals and Mr. Gary Bosetti?</p> <p>3 MR. GOODSTADT: Objection.</p> <p>4 A. No.</p> <p>5 Q. Does he indicate anywhere in this 13:55:04</p> <p>6 letter that he was an eyewitness to anything</p> <p>7 involving Gary Bosetti fighting these -- any</p> <p>8 individual?</p> <p>9 MR. GOODSTADT: Objection.</p> <p>10 A. No. 13:55:15</p> <p>11 Q. Now let's look at Exhibit 16?</p> <p>12 MR. CONNOLLY: Which we are going</p> <p>13 to have the same problem.</p> <p>14 MR. NOVIKOFF: Yes.</p> <p>15 Q. It is the Doug Wyckoff, 3165 and 13:55:35</p> <p>16 3166.</p> <p>17 MR. GOODSTADT: Looks good to me.</p> <p>18 Q. I am going to ask you to read,</p> <p>19 same representation that what I am showing you</p> <p>20 is 3165 and 3166. I represent that it was 13:56:04</p> <p>21 marked as Exhibit 16 at your deposition</p> <p>22 earlier and your counsel is handing you a copy</p> <p>23 of his.</p> <p>24 MR. CONNOLLY: Which again notes</p> <p>25 that it is Exhibit 16 in my handwriting? 13:56:15</p>	<p>1 Hesse</p> <p>2 Q. Would you agree then that had he</p> <p>3 been taking one of the individuals out the</p> <p>4 front door while the altercation was still</p> <p>5 going on involving Gary Bosetti that he might 13:58:07</p> <p>6 not have seen Mr. Bosetti using a pool cue?</p> <p>7 MR. GOODSTADT: Objection.</p> <p>8 A. Yes.</p> <p>9 Q. Did Mr. Bosetti ever deny ever</p> <p>10 using a pool cue? 13:58:21</p> <p>11 A. No.</p> <p>12 Q. And in fact if I recall correctly</p> <p>13 in his witness statement he acknowledged</p> <p>14 specifically that he hit Mr. Schalik, or he</p> <p>15 hit somebody with a pool cue; right? 13:58:28</p> <p>16 A. Yes.</p> <p>17 Q. Now, let's look at Exhibit 15, and</p> <p>18 if Mr. Connolly doesn't mind I would like to</p> <p>19 have him show to the extent that there is no</p> <p>20 extraneous handwriting other than the exhibit 13:58:44</p> <p>21 number.</p> <p>22 Again I represent that Exhibit 15,</p> <p>23 what I am handing you is document 3181 through</p> <p>24 3182?</p> <p>25 A. Correct. 13:59:04</p>

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<p>1 Hesse</p> <p>2 Q. And it was marked as Exhibit 15 by</p> <p>3 Mr. Goodstadt when he was questioning you. I</p> <p>4 am going to ask you to read this one and then</p> <p>5 tell me when you are done? 13:59:15</p> <p>6 A. Okay.</p> <p>7 MR. CONNOLLY: Just let me see it</p> <p>8 for a second. Okay.</p> <p>9 Q. Now, I have showed you Exhibit 15,</p> <p>10 and whose signature -- whose eyewitness 14:01:20</p> <p>11 statement is that; that is Jeannie Jaeger; is</p> <p>12 that correct?</p> <p>13 A. Yes.</p> <p>14 Q. Does Ms. Jaeger in this eyewitness</p> <p>15 statement or this statement indicate that at 14:01:29</p> <p>16 some point in time she went into the woman's</p> <p>17 bathroom after the altercation began?</p> <p>18 MR. GOODSTADT: Objection.</p> <p>19 A. Yes.</p> <p>20 Q. Why don't you tell the court what 14:01:41</p> <p>21 Ms. Jaeger is saying with regard to when she</p> <p>22 went back into the bathroom?</p> <p>23 A. You want me to read it?</p> <p>24 Q. Yes, please.</p> <p>25 MR. GOODSTADT: Objection. 14:01:50</p>	<p>1 Hesse</p> <p>2 statement that she saw Mr. Bosetti use a pool</p> <p>3 cue?</p> <p>4 A. No, I don't find it strange.</p> <p>5 Q. The same thing with Mr. Wyckoff, 14:03:12</p> <p>6 given the fact that Mr. Wyckoff indicated that</p> <p>7 at some point in time in the statement he took</p> <p>8 one of the alleged victims and forced him out</p> <p>9 of the bar, does it seem strange to you that</p> <p>10 Mr. Wyckoff didn't see Mr. Bosetti use a pool 14:03:27</p> <p>11 cue?</p> <p>12 A. No, I don't find it strange.</p> <p>13 Q. In fact if Mr. Wyckoff said he saw</p> <p>14 Mr. Bosetti use a pool cue when in fact he</p> <p>15 didn't, Mr. Wyckoff would be committing a 14:03:39</p> <p>16 perjurious act; is that correct?</p> <p>17 A. Yes, he would be lying.</p> <p>18 Q. Let's look at Mr. Steven Jaeger.</p> <p>19 Now if Mr. Steve Jaeger indicated in his</p> <p>20 letter of complaint to Chief Paradiso that he 14:03:51</p> <p>21 knew that Gary Bosetti used a pool cue when in</p> <p>22 fact he never was an eyewitness to that, he</p> <p>23 would be lying as well?</p> <p>24 A. Correct.</p> <p>25 Q. So to the extent that Mr. 14:04:06</p>
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<p>1 Hesse</p> <p>2 A. "The man then lunged towards Gary</p> <p>3 and fell into the corner with the parking</p> <p>4 meter, taking the girl dressed as a cop with</p> <p>5 him. They were both down and not moving when 14:02:08</p> <p>6 I grabbed Elyse and ducked into the ladies</p> <p>7 room."</p> <p>8 Q. Would you agree with me that if</p> <p>9 Ms. Jaeger was in the ladies room at the time</p> <p>10 that Mr. Bosetti had used the pool cue and the 14:02:23</p> <p>11 bathroom door was closed, she could not have</p> <p>12 seen Mr. Bosetti use the pool cue?</p> <p>13 MR. GOODSTADT: Objection.</p> <p>14 A. Yes.</p> <p>15 Q. Would you agree with me that if 14:02:33</p> <p>16 she put in this statement that she put, that</p> <p>17 she saw Mr. Bosetti use a pool cue when in</p> <p>18 fact she didn't, she would be committing a</p> <p>19 perjurious act?</p> <p>20 A. Yes, she would be lying, yes. 14:02:45</p> <p>21 MR. GOODSTADT: Objection.</p> <p>22 Q. Does it seem strange to you that</p> <p>23 based upon the fact that Ms. Jaeger went into</p> <p>24 the ladies room at some point in time during</p> <p>25 the altercation and she didn't put down in her 14:03:01</p>	<p>1 Hesse</p> <p>2 Goodstadt showed you this letter of complaint</p> <p>3 as a purported eyewitness statement, does it</p> <p>4 seem strange to you now -- does it seem</p> <p>5 strange to you that Mr. Budd Jaeger made no 14:04:18</p> <p>6 reference to Gary Bosetti using a pool cue?</p> <p>7 MR. GOODSTADT: Objection.</p> <p>8 A. No. At this time, no.</p> <p>9 Q. Let's look at Exhibit 19, and this</p> <p>10 one I think he showed you today? 14:04:41</p> <p>11 A. Yes, it is somewhere in here.</p> <p>12 Q. Now, Exhibit 19 is a statement of</p> <p>13 Elyse Miller; is that correct?</p> <p>14 A. Yes.</p> <p>15 Q. At least it purports to be a 14:04:57</p> <p>16 statement of Elyse Miller?</p> <p>17 A. Yes.</p> <p>18 Q. Mr. Goodstadt asked you a series</p> <p>19 of questions about that, do you recall?</p> <p>20 A. Yes. 14:05:03</p> <p>21 Q. Let's go to the third page of this</p> <p>22 document, 3171?</p> <p>23 A. Okay.</p> <p>24 Q. Actually it starts, the part I</p> <p>25 want to focus on starts on 3170? 14:05:17</p>

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<p>1 Hesse</p> <p>2 A. Yes.</p> <p>3 Q. I am going to read it into the</p> <p>4 record: "At that point the guy in the orange</p> <p>5 jump suit reached for Jean's throat, he was 14:05:28</p> <p>6 going to choke her. Jean was trapped. The</p> <p>7 wall to the men's room was behind her and</p> <p>8 there was no place to move in that little</p> <p>9 bathroom waiting area. I started to grab for</p> <p>10 his wrist trying to get him off, but 14:05:45</p> <p>11 thankfully Gary appeared and pushed him to the</p> <p>12 ground and away from Jean. The guy fell down</p> <p>13 bringing Gary and the girl with him. Suddenly</p> <p>14 another guy appeared, I believe he had on a</p> <p>15 gray shirt. Gary told the guy that he was a 14:06:01</p> <p>16 cop, telling him to step back, get out of the</p> <p>17 way and to stay out of it. But the guy said</p> <p>18 he didn't care who Gary was and he went to</p> <p>19 kick Gary in the head. Gary blocked the kick</p> <p>20 and Jean and I were pushed further back in the 14:06:16</p> <p>21 tight space now trapped. Jean pulled me into</p> <p>22 the ladies room for safety."</p> <p>23 Do you see that?</p> <p>24 A. Yes.</p> <p>25 Q. Let's assume, I wasn't there, you 14:06:26</p>	<p>1 Hesse</p> <p>2 didn't see him use a pool cue, that would have</p> <p>3 been a perjurious statement; correct?</p> <p>4 A. Yes. She would have been lying.</p> <p>5 MR. GOODSTADT: You don't want to 14:07:34</p> <p>6 discuss the part when she opens the door</p> <p>7 and discusses the rest of it?</p> <p>8 MR. NOVIKOFF: No. You may.</p> <p>9 Q. Now let's look at Exhibit 20,</p> <p>10 because you know these things happen in the 14:07:51</p> <p>11 blink of an eye.</p> <p>12 MR. GOODSTADT: Recollections are</p> <p>13 sketchy, right, they become snapshots.</p> <p>14 MR. NOVIKOFF: They do, especially</p> <p>15 if there is alcohol involved. 14:08:02</p> <p>16 MR. GOODSTADT: Read the statement</p> <p>17 yourself.</p> <p>18 Q. You know what, before we get to</p> <p>19 that, you are looking at an exhibit with one</p> <p>20 of the alleged victims that Mr. Goodstadt 14:08:12</p> <p>21 showed you; right?</p> <p>22 A. Yes.</p> <p>23 Q. What exhibit number was that?</p> <p>24 A. 17.</p> <p>25 Q. Is there a picture there with a 14:08:17</p>
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<p>1 Hesse</p> <p>2 were not there, no one in this room was there.</p> <p>3 The only people -- well, actually none of the</p> <p>4 police officers were there.</p> <p>5 Let's assume for the purpose of 14:06:35</p> <p>6 this question that Gary Bosetti used the pool</p> <p>7 cue while Elyse Miller was in the bathroom,</p> <p>8 and let's assume that the door was closed.</p> <p>9 Could Elyse Miller have seen Gary Bosetti use</p> <p>10 the pool cue while she was in the bathroom 14:06:52</p> <p>11 with the door closed?</p> <p>12 MR. GOODSTADT: Objection.</p> <p>13 A. No.</p> <p>14 Q. Let's assume for the purpose of my</p> <p>15 question that in fact Gary Bosetti used the 14:06:59</p> <p>16 pool cue while Elyse Miller was in the</p> <p>17 bathroom with the door closed. Would it be</p> <p>18 strange to you that Elyse Miller didn't put</p> <p>19 down in her statement that Gary Bosetti had</p> <p>20 used a pool cue? 14:07:13</p> <p>21 A. No.</p> <p>22 Q. In fact if Gary Bosetti had used</p> <p>23 a pool cue -- I'm sorry, and in fact had Elyse</p> <p>24 Miller put down in her statement that Gary</p> <p>25 Bosetti had used a pool cue, when in fact she 14:07:22</p>	<p>1 Hesse</p> <p>2 neck brace on?</p> <p>3 A. Yes.</p> <p>4 Q. Is that standard procedure for a</p> <p>5 victim that you believe have injuries when you 14:08:23</p> <p>6 want to move them to put them in a neck brace?</p> <p>7 MR. GOODSTADT: Objection.</p> <p>8 A. No.</p> <p>9 Q. Do you think he went to the bar</p> <p>10 with a neck brace? 14:08:33</p> <p>11 A. No.</p> <p>12 Q. So at some point in time after he</p> <p>13 left the bar that night somebody put him in a</p> <p>14 neck brace?</p> <p>15 A. At some point, yes. 14:08:40</p> <p>16 Q. Do you know who did?</p> <p>17 A. I believe one of the EMTs did.</p> <p>18 Q. Let's go back to Exhibit 20, Ian</p> <p>19 Levine, and read Mr. Levine's statement to</p> <p>20 yourself and then tell me when you are done? 14:08:52</p> <p>21 A. I need a magnifying glass.</p> <p>22 Okay.</p> <p>23 Q. Now, Mr. Levine makes no mention</p> <p>24 of the fact that Gary Bosetti used a pool cue</p> <p>25 at any time? 14:10:46</p>

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<p>1 Hesse</p> <p>2 A. No, he did not.</p> <p>3 Q. Did Mr. Levine indicate in this</p> <p>4 thing that he saw the entirety of the</p> <p>5 altercation involving Mr. Gary Bosetti? 14:10:52</p> <p>6 MR. GOODSTADT: Objection.</p> <p>7 A. No.</p> <p>8 Q. In fact isn't it true that at</p> <p>9 least in this statement Mr. Levine said at</p> <p>10 some point in time after the altercation 14:11:06</p> <p>11 started he used his cell phone to make a call</p> <p>12 to the police?</p> <p>13 MR. GOODSTADT: Objection.</p> <p>14 A. Yes, he did.</p> <p>15 MR. NOVIKOFF: Leading? 14:11:15</p> <p>16 MR. GOODSTADT: The document</p> <p>17 speaks for itself.</p> <p>18 MR. CONNOLLY: And going forward</p> <p>19 so we don't have any talk overs and drive</p> <p>20 the reporter crazy, wait a second or two 14:11:22</p> <p>21 to allow for any objections.</p> <p>22 Q. So now hypothetically, sir, if Mr.</p> <p>23 Levine took his eyes away from the altercation</p> <p>24 while he went to get his cell phone, dial the</p> <p>25 number for the police, talked to whomever he 14:11:37</p>	<p>1 Hesse</p> <p>2 incident. Do you recall questions about that?</p> <p>3 A. Yes.</p> <p>4 Q. Have you read the complaint in</p> <p>5 this matter? 14:12:42</p> <p>6 A. Yes.</p> <p>7 Q. There is a whole lot of -- in fact</p> <p>8 there is about 26 allegations I think about</p> <p>9 you covering up or the Ocean Beach Police</p> <p>10 Department covering up something with regard 14:12:53</p> <p>11 to the Halloween incident; correct?</p> <p>12 A. Yes.</p> <p>13 Q. And you had rumors that some of</p> <p>14 the plaintiffs here thought that there was a</p> <p>15 cover up; correct? 14:13:01</p> <p>16 A. Yes.</p> <p>17 Q. Let me ask you these questions,</p> <p>18 did you cover up anything involving the</p> <p>19 Halloween incident?</p> <p>20 A. Absolutely not. 14:13:06</p> <p>21 Q. Did Chief Paradiso cover up</p> <p>22 anything?</p> <p>23 A. Absolutely not.</p> <p>24 Q. To your knowledge did Mr. Cherry</p> <p>25 cover up anything? 14:13:13</p>
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<p>1 Hesse</p> <p>2 talked to on the police, hang up the cell</p> <p>3 phone and put the cell phone back wherever it</p> <p>4 was, had he taken his eyes off the altercation</p> <p>5 he may not have seen Mr. Bosetti use a pool 14:11:58</p> <p>6 cue; correct?</p> <p>7 A. That is correct.</p> <p>8 MR. GOODSTADT: Objection.</p> <p>9 Q. Hypothetically?</p> <p>10 A. Yes. 14:11:58</p> <p>11 Q. And you would agree with me then</p> <p>12 that if Mr. Levine, had he not seen Gary</p> <p>13 Bosetti use a pool cue, put in the statement</p> <p>14 that he in fact did use a pool cue, that would</p> <p>15 have been a perjurious statement? 14:12:10</p> <p>16 A. Yes.</p> <p>17 Q. Now based upon your review of Mr.</p> <p>18 Levine's statement and the fact that he used a</p> <p>19 cell phone to call the police at some point in</p> <p>20 time after the altercation started, does it 14:12:21</p> <p>21 seem strange that he didn't see Gary Bosetti</p> <p>22 use a pool cue?</p> <p>23 A. No.</p> <p>24 Q. Now, a whole lot of questions</p> <p>25 about a cover up involving the Halloween 14:12:36</p>	<p>1 Hesse</p> <p>2 A. Absolutely not.</p> <p>3 Q. To your knowledge did any trustee</p> <p>4 member instruct you to cover up anything?</p> <p>5 A. No. 14:13:19</p> <p>6 Q. To your knowledge did Mayor Rogers</p> <p>7 instruct you to cover up anything involving</p> <p>8 the Halloween incident?</p> <p>9 A. No.</p> <p>10 Q. To your knowledge was the issue of 14:13:25</p> <p>11 covering up anything involving the Halloween</p> <p>12 incident ever mentioned between you and any</p> <p>13 person higher in authority than you?</p> <p>14 A. No.</p> <p>15 MR. GOODSTADT: Objection. 14:13:44</p> <p>16 Q. Did the issue of -- withdrawn.</p> <p>17 At some point in time there were</p> <p>18 arrests made with regard to the Halloween</p> <p>19 incident; is that correct?</p> <p>20 A. Yes. 14:13:57</p> <p>21 Q. Was Gary Bosetti arrested?</p> <p>22 A. No.</p> <p>23 Q. Who was arrested?</p> <p>24 A. Brian Van Koot and Christopher</p> <p>25 Schalik. 14:14:05</p>

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1 Hesse
2 **Q. And what was Brian Van Koot**
3 **arrested for?**
4 A. Harassment on Jean Jaeger for
5 choking her, and assault third on Gary 14:14:11
6 Bosetti.
7 **Q. What was the -- who was the other**
8 **individual?**
9 A. Christopher Schalik.
10 **Q. So we have Van Koot and Schalik? 14:14:18**
11 A. Yes.
12 **Q. What was Mr. Schalik arrested for?**
13 A. Assault on Gary Bosetti.
14 **Q. Now, an arrest is a serious**
15 **matter; correct? 14:14:35**
16 MR. GOODSTADT: Objection.
17 A. Yes.
18 **Q. Just could you tell I guess the**
19 **jury may one day, hopefully not, but maybe one**
20 **day see this videotape with your deposition, 14:14:43**
21 **could you tell the jury what takes place after**
22 **someone is arrested?**
23 MR. CONNOLLY: Objection.
24 MR. GOODSTADT: Objection.
25 **Q. In terms of the process and the 14:14:58**

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1 Hesse
2 **procedure?**
3 A. There is a process.
4 **Q. Okay.**
5 A. Information that we have to get 14:15:01
6 from the defendant, pedigree information, past
7 arrest information. There are fingerprints
8 taken, pictures taken, and then subsequently
9 charges are drawn up and then therefore they
10 are arraigned on those charges. 14:15:16
11 **Q. Who draws up the charges?**
12 A. We do.
13 **Q. When you say they are arraigned,**
14 **what do you mean?**
15 A. They go before the judge and plead 14:15:25
16 guilty or not guilty.
17 **Q. Does the Village of Ocean Beach**
18 **have their own type of District Attorney's**
19 **office?**
20 A. We have our own village court. 14:15:37
21 **Q. Okay.**
22 A. And we have district attorneys
23 appointed by the District Attorney's office of
24 Suffolk County to prosecute.
25 **Q. Now is it up to the -- based upon 14:15:46**

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1 Hesse
2 **your experience at Ocean Beach -- is it up to**
3 **the Suffolk County District Attorney**
4 **Prosecutor's office to decide ultimately**
5 **whether or not to prosecute someone who is 14:15:58**
6 **arrested?**
7 A. Yes.
8 **Q. So if I understand correctly,**
9 **merely because Van Koot and Schalik were**
10 **arrested didn't automatically mean that they 14:16:07**
11 **were going to be prosecuted by the District**
12 **Attorney's office?**
13 A. Well, we could back up a little
14 bit if I may.
15 **Q. Okay. Answer that question -- 14:16:16**
16 **answer the way you want. If Mr. Goodstadt**
17 **objects or makes a motion to strike later on**
18 **we will don't with it.**
19 A. They were not arrested until I had
20 the approval of the District Attorney's 14:16:30
21 office.
22 **Q. That is interesting. I never knew**
23 **that, so let me then ask you this question.**
24 **Prior to arresting Van Koot and**
25 **Schalik did you seek the approval from any law 14:16:42**

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1 Hesse
2 **enforcement entity or District Attorney's**
3 **office?**
4 A. Yes.
5 MR. BAPTISTE: Objection. General 14:16:51
6 objection.
7 MR. NOVIKOFF: To form?
8 MR. BAPTISTE: Yes.
9 **Q. Let me try to narrow it down a**
10 **little bit. Prior to arresting Van Koot and 14:17:06**
11 **Schalik did you have any communications with**
12 **the Suffolk County District Attorney's office**
13 **concerning arresting either of these two**
14 **individuals?**
15 A. Yes. 14:17:20
16 **Q. Can you describe for the jury and**
17 **the court what communications you had**
18 **concerning arresting Van Koot and Schalik**
19 **prior to actually arresting them?**
20 A. I told them what I had. I said I 14:17:32
21 had a lot of documents I would like to fax
22 over for review to make sure that this is
23 going correctly. I faxed them over. I spoke
24 to -- it was not Beth Grosso who was appointed
25 to us -- Mallory Sullivan was the prosecutor I 14:17:52

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<p>1 Hesse</p> <p>2 believe on this case, and I faxed everything</p> <p>3 to her, she read it over. She said she needed</p> <p>4 to speak to her bureau chief which in turn she</p> <p>5 did. She got back to me and she said that the 14:18:08</p> <p>6 charges look good. And then I filed the</p> <p>7 charges with the court.</p> <p>8 Q. How long was the process between</p> <p>9 your first communication with Ms. Sullivan and</p> <p>10 then her advising you as you just testified 14:18:21</p> <p>11 that the charges looked good?</p> <p>12 A. Couple of days maybe.</p> <p>13 Q. You only had two conversations</p> <p>14 with Mallory prior to arresting?</p> <p>15 A. That was it, yeah. 14:18:33</p> <p>16 Q. What did you fax over to her?</p> <p>17 A. The entire package. It was all of</p> <p>18 the plaintiff's statements. Their reports, my</p> <p>19 reports. The charges that I was going to</p> <p>20 draft up, the assault and harassment. I 14:18:47</p> <p>21 believe Officer Bosetti's statement, Rich</p> <p>22 Bosetti's statements. Basically every kit and</p> <p>23 caboodle that you see her in front, all these</p> <p>24 statements, I sent everything.</p> <p>25 Q. Did Ms. Sullivan ever advise you 14:19:05</p>	<p>1 Hesse</p> <p>2 Q. And we are now August of 2009, so</p> <p>3 almost five years removed. To your knowledge</p> <p>4 have you ever been brought up on charges</p> <p>5 concerning a cover up of the Halloween 14:20:17</p> <p>6 incident?</p> <p>7 A. No.</p> <p>8 Q. Has anyone been brought up on</p> <p>9 charges concerning the Halloween incident?</p> <p>10 A. No. 14:20:26</p> <p>11 Q. To your knowledge has the village</p> <p>12 been sued by Van Koot or Schalik concerning</p> <p>13 the events surrounding that evening?</p> <p>14 A. No, they did not.</p> <p>15 Q. Are you aware if the District 14:20:34</p> <p>16 Attorney is investigating you or the Ocean</p> <p>17 Beach Police Department with regard to a cover</p> <p>18 up of the Halloween incident?</p> <p>19 A. Am I aware of an investigation?</p> <p>20 Q. Yes. 14:20:43</p> <p>21 A. I believe there is an</p> <p>22 investigation done.</p> <p>23 Q. You believe that that</p> <p>24 investigation has concluded?</p> <p>25 MR. GOODSTADT: Objection. 14:20:49</p>
Page 716	Page 718
<p>1 Hesse</p> <p>2 that she thought any of the witness statements</p> <p>3 were strange?</p> <p>4 A. No.</p> <p>5 Q. Did she ever question you as to 14:19:12</p> <p>6 why no witness statement other than perhaps</p> <p>7 the Bosetti's, Mr. Gary Bosetti's indicated --</p> <p>8 didn't indicate a pool cue being used?</p> <p>9 A. Never asked.</p> <p>10 Q. Did she ever indicate to you that 14:19:30</p> <p>11 she thought the charges were suspect?</p> <p>12 A. Not at all.</p> <p>13 Q. Did she ever indicate to you by</p> <p>14 any words that she used that you all were</p> <p>15 engaging in a cover up to protect Gary Bosetti 14:19:42</p> <p>16 or Richie Bosetti?</p> <p>17 A. Absolutely not.</p> <p>18 Q. Has any district attorney involved</p> <p>19 in the arrest and prosecution of Van Koot and</p> <p>20 Schalik ever advised you that they thought 14:19:57</p> <p>21 that there was a cover up?</p> <p>22 A. Never.</p> <p>23 Q. Now, this was October of 2004;</p> <p>24 right?</p> <p>25 A. Yes. 14:20:07</p>	<p>1 Hesse</p> <p>2 A. I don't know.</p> <p>3 Q. But this is now five years ago;</p> <p>4 correct?</p> <p>5 A. This was five years ago, yes. 14:20:55</p> <p>6 Q. What is the basis for your belief</p> <p>7 that the Suffolk County District Attorney's</p> <p>8 office was investigating an alleged cover up?</p> <p>9 A. Just from the plaintiff's comments</p> <p>10 in their depositions, that they turned all 14:21:08</p> <p>11 their stuff over to file a complaint that</p> <p>12 there was a cover up.</p> <p>13 Q. So other than what you saw in the</p> <p>14 depositions and what you read in the</p> <p>15 depositions are you aware from any other 14:21:18</p> <p>16 source that the District Attorney is</p> <p>17 investigating the alleged cover up of anything</p> <p>18 involving the Halloween incident?</p> <p>19 A. No.</p> <p>20 Q. So what happened after 14:21:33</p> <p>21 Ms. Sullivan gave you the green light to</p> <p>22 arrest Schalik and Van Koot?</p> <p>23 A. I took all the paperwork, I filed</p> <p>24 it with the court. The three -- I think it</p> <p>25 was three court informations. One harassment, 14:21:47</p>

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1 Hesse
2 one assault for Van Koot, one assault for
3 Schalik. I filed it with the court clerk.
4 She subsequently issued criminal summonses for
5 their appearance signed by the judge, and they 14:22:00
6 turned themselves in.
7 **Q. So if I understand your testimony**
8 **correctly, the judge had to sign off on the**
9 **criminal summonses; right?**
10 A. Yes. 14:22:13
11 **Q. And presumably if the judge didn't**
12 **think that there was enough good cause he or**
13 **she would not have signed the summonses?**
14 MR. GOODSTADT: Objection.
15 A. I would suspect, yeah. 14:22:20
16 **Q. You would suspect yes?**
17 A. Yes.
18 **Q. So now we have before the arrest**
19 **were made and correct me if I am wrong, the**
20 **DA -- you had done your investigation? 14:22:31**
21 A. Yes.
22 **Q. The DA had looked at whatever you**
23 **sent them?**
24 A. Yes.
25 **Q. And they gave you the green light? 14:22:39**

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1 Hesse
2 A. Yes.
3 **Q. And the judge gave you the green**
4 **light?**
5 A. Yes. 14:22:43
6 **Q. What happened after the judge gave**
7 **you the green light?**
8 A. They came into court I believe in
9 December sometime, and they were arraigned and
10 they showed with an attorney. And from that 14:22:54
11 point on they plea bargained and end of story.
12 They pled guilty, they allocuted and --
13 **Q. Let's break it down.**
14 **Did you arrest them after the**
15 **judge gave you the green light? 14:23:15**
16 A. No. After -- when they turned
17 themselves in and they were arraigned they
18 were remanded to police custody for pedigree
19 information, arrest paperwork and
20 fingerprints, pictures. 14:23:29
21 **Q. So if I understand the sequence of**
22 **events, after the judge gave you a green light**
23 **there was some type of communication made with**
24 **them that they were in fact charged with**
25 **certain crimes and they were offered an 14:23:40**

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1 Hesse
2 **opportunity to come present themselves to the**
3 **court, and they did?**
4 A. Which they did, yes.
5 **Q. So no officer went to their house 14:23:50**
6 **to arrest them?**
7 A. No.
8 **Q. No one put them in handcuffs and**
9 **took them in a boat back to Ocean Beach;**
10 **right? 14:23:59**
11 A. No.
12 **Q. And so they came into court, they**
13 **were arraigned. How were they arraigned, were**
14 **you there?**
15 A. Yes. 14:24:07
16 **Q. Describe for the court what took**
17 **place?**
18 A. Its funny because that year for
19 whatever reason the courtroom was shut down,
20 we had to use the village office which was 14:24:17
21 close to do the public except for court
22 purposes. We set up a table, the judge sat
23 behind the table. They stood before the judge
24 and they pled not guilty.
25 **Q. So the charges were read against 14:24:32**

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1 Hesse
2 **them?**
3 A. Yes.
4 **Q. Who read the charges against them?**
5 A. The judge. 14:24:37
6 **Q. And they were represented by**
7 **counsel?**
8 A. By counsel, yes.
9 **Q. By one or two counsel?**
10 A. I believe at that time it was two. 14:24:43
11 **Q. So each one of them had their own**
12 **counsel?**
13 A. Yes.
14 **Q. The charges were read against them**
15 **and they pled not guilty? 14:24:50**
16 A. Correct.
17 **Q. When did that take place?**
18 A. I believe in December. I don't
19 know the exact date.
20 **Q. You indicated in a prior answer 14:24:58**
21 **that they took a plea at some point in time**
22 **thereafter?**
23 A. Yes.
24 **Q. When did they take the plea?**
25 A. I don't know. 14:25:08

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<p>1 Hesse</p> <p>2 Q. Weeks later, months later?</p> <p>3 A. It was probably a month or two.</p> <p>4 It could have been longer.</p> <p>5 Q. Had you had any communication with 14:25:17</p> <p>6 the District Attorney's office between the</p> <p>7 time of the arraignment and the time of the</p> <p>8 plea?</p> <p>9 A. No.</p> <p>10 Q. Were you aware at all that there 14:25:24</p> <p>11 were plea discussions going on?</p> <p>12 A. I was aware, but I didn't know</p> <p>13 what they were.</p> <p>14 Q. How were you aware?</p> <p>15 A. I know because they had to make 14:25:31</p> <p>16 motions for discovery and everything else. So</p> <p>17 I know they were communicating back and forth,</p> <p>18 but other than an actual plea deal, I don't</p> <p>19 know if I knew so until towards the end.</p> <p>20 Q. To your knowledge the defendant's 14:25:44</p> <p>21 counsel made motions to get discovery?</p> <p>22 A. Sure.</p> <p>23 Q. What was your involvement?</p> <p>24 A. At this point?</p> <p>25 Q. How did you learn that they made 14:25:52</p>	<p>1 Hesse</p> <p>2 plea taken?</p> <p>3 A. I remember sitting in court and</p> <p>4 listening to the plea and the allocution?</p> <p>5 Q. What did Van Koot to the best of 14:26:54</p> <p>6 your recollection plea to?</p> <p>7 A. You know what, I don't know.</p> <p>8 Disorderly conduct maybe.</p> <p>9 Q. Do you know what he allocuted to?</p> <p>10 A. He did admit to choking Jean 14:27:08</p> <p>11 Jaeger. He did admit to holding Gary Bosetti</p> <p>12 while Chris Schalik kicked him in the face.</p> <p>13 Q. And what did Chris Schalik plea to</p> <p>14 to the best of your recollection?</p> <p>15 A. Probably the same type of 14:27:26</p> <p>16 disorderly conduct.</p> <p>17 Q. What did to the best of your</p> <p>18 recollection Chris Schalik allocute to?</p> <p>19 A. He stated that he did kick Police</p> <p>20 Officer Gary Bosetti, or attempted to kick him 14:27:37</p> <p>21 in the face.</p> <p>22 Q. Now did these witnesses to your</p> <p>23 recollection advise Officer Lamm that evening</p> <p>24 that Schalik had in fact kicked Bosetti in the</p> <p>25 face while Van Koot had him on the ground? 14:27:56</p>
Page 724	Page 726
<p>1 Hesse</p> <p>2 motions for discovery?</p> <p>3 A. I was in court when they made the</p> <p>4 motions. They were speaking to the judge and</p> <p>5 working out what they needed to do. 14:26:01</p> <p>6 Q. Pursuant to that motion did the</p> <p>7 village -- or did the District Attorney to</p> <p>8 your knowledge produce any discovery?</p> <p>9 A. Yes.</p> <p>10 Q. Do you know what the District 14:26:09</p> <p>11 Attorney produced?</p> <p>12 A. I believe all these documents that</p> <p>13 are sitting in front of us too.</p> <p>14 Q. So at least to your knowledge now</p> <p>15 the District Attorney had an opportunity to 14:26:17</p> <p>16 look at the witness statements and everything</p> <p>17 else that was in the file, and Van Koot and</p> <p>18 Schalik's attorneys had the opportunity to</p> <p>19 look at those same documents; right?</p> <p>20 A. Yes. 14:26:30</p> <p>21 Q. Were you notified before the plea</p> <p>22 was taken that there was going to be a plea?</p> <p>23 A. I don't recall whether I was</p> <p>24 notified or not.</p> <p>25 Q. How did you learn that there was a 14:26:44</p>	<p>1 Hesse</p> <p>2 A. Did Christopher Schalik advise him</p> <p>3 that he did --</p> <p>4 Q. According to any statement that</p> <p>5 Lamm provided you did he ever indicate in that 14:28:05</p> <p>6 statement that Schalik admitted to kicking</p> <p>7 Bosetti in the face while Van Koot had him on</p> <p>8 the ground?</p> <p>9 A. No.</p> <p>10 Q. In any statement that you saw Lamm 14:28:17</p> <p>11 provide you during the course of the</p> <p>12 investigation or even from that evening did he</p> <p>13 ever advise in that statement that Van Koot</p> <p>14 admitted to holding Bosetti down while Schalik</p> <p>15 kicked him in the face? 14:28:30</p> <p>16 A. No.</p> <p>17 Q. How about with regard to Snyder,</p> <p>18 in any statement that Snyder presented to you</p> <p>19 with regard to the Halloween incident did he</p> <p>20 ever make reference in there to Van Koot 14:28:39</p> <p>21 acknowledging that he held Bosetti down while</p> <p>22 Schalik kicked him?</p> <p>23 A. No.</p> <p>24 Q. Did he ever acknowledge in that</p> <p>25 statement that Schalik admitted to kicking 14:28:48</p>

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<p>1 Hesse</p> <p>2 Bosetti while Van Koot held him down?</p> <p>3 A. No.</p> <p>4 Q. Same question with regard to Nofi.</p> <p>5 In any statement that Nofi ever -- Snyder, 14:28:58</p> <p>6 excuse me.</p> <p>7 A. Nofi was not there.</p> <p>8 Q. With regard to Snyder -- excuse</p> <p>9 me, Fiorillo. With regard to Fiorillo, in any</p> <p>10 statement that Fiorillo provided you did he 14:29:12</p> <p>11 ever state in there that Van Koot acknowledged</p> <p>12 that he held Bosetti down while Schalik kicked</p> <p>13 him?</p> <p>14 A. No.</p> <p>15 Q. Same question now, did Fiorillo 14:29:27</p> <p>16 ever acknowledge -- did Fiorillo ever state in</p> <p>17 any statement that he gave you or any report</p> <p>18 that he gave you that Schalik admitted to</p> <p>19 kicking Gary Bosetti while he was being held</p> <p>20 down by Van Koot? 14:29:42</p> <p>21 A. No.</p> <p>22 Q. So would you agree with me that</p> <p>23 assuming that Van Koot and Schalik truthfully</p> <p>24 allocuted to the events that took place that</p> <p>25 evening, that they had lied to the officers 14:29:56</p>	<p>1 Hesse</p> <p>2 evidence. No names, no phone numbers, they</p> <p>3 didn't secure the premise, they could have</p> <p>4 shut the doors, turn the lights on, turn the</p> <p>5 music on. I think there was just a lot of bad 14:31:35</p> <p>6 decisions made throughout the course of the</p> <p>7 entire incident.</p> <p>8 Q. Now, how about Snyder -- well,</p> <p>9 when I asked you about Fiorillo, do you</p> <p>10 include Snyder and Lamm into that description 14:31:46</p> <p>11 as well, or I could just ask you the questions</p> <p>12 one by one if you want?</p> <p>13 A. Yes, I do.</p> <p>14 Q. So when you say you thought that</p> <p>15 there were bad decisions made you are 14:31:55</p> <p>16 referring to Fiorillo, Lamm and Snyder?</p> <p>17 A. Yes.</p> <p>18 Q. I'm going to try to do this</p> <p>19 without boring everyone to death and going</p> <p>20 line by line through the complaint for the 14:32:36</p> <p>21 sake of expediency. Did any of the plaintiffs</p> <p>22 ever complain to you about having to drive you</p> <p>23 to anyplace in Ocean Beach for something</p> <p>24 unrelated to official duties?</p> <p>25 A. No. 14:33:00</p>
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<p>1 Hesse</p> <p>2 that evening?</p> <p>3 MR. GOODSTADT: Objection.</p> <p>4 A. Yes.</p> <p>5 Q. How would you describe, I am going 14:30:07</p> <p>6 to go officer by officer now, and I am only</p> <p>7 referring specifically to the hours</p> <p>8 immediately after the incident took place. So</p> <p>9 from the time that the officers were called to</p> <p>10 go to Hauser's to the time that Chief Paradiso 14:30:28</p> <p>11 came into the station that morning, how would</p> <p>12 you describe Fiorillo's investigation of the</p> <p>13 events that took place?</p> <p>14 MR. GOODSTADT: Objection.</p> <p>15 MR. CONNOLLY: Objection. 14:30:43</p> <p>16 Q. You can answer.</p> <p>17 A. I just believe it was poorly done.</p> <p>18 Q. With regard to Fiorillo now why do</p> <p>19 you believe it was poorly done?</p> <p>20 A. I just -- I don't believe that he 14:30:56</p> <p>21 was aggressive enough to talk to the people he</p> <p>22 thought were the complainant. I don't think</p> <p>23 that he was aggressive enough to go into the</p> <p>24 bar and just get names and phone numbers. You</p> <p>25 know, where is the pool cue; nobody gathered 14:31:24</p>	<p>1 Hesse</p> <p>2 MR. CONNOLLY: Objection.</p> <p>3 Q. Did the plaintiffs ever drive you</p> <p>4 anywhere in Ocean Beach for duties unrelated</p> <p>5 to you being a police officer? 14:33:06</p> <p>6 A. No.</p> <p>7 Q. Did any of the plaintiffs ever</p> <p>8 drive you to anyplace off the beach for</p> <p>9 reasons unrelated to official police duty?</p> <p>10 A. No. 14:33:22</p> <p>11 MR. GOODSTADT: When you say off</p> <p>12 the beach you are referring to outside of</p> <p>13 Ocean Beach or off of Fire Island?</p> <p>14 MR. NOVIKOFF: No, outside of</p> <p>15 Ocean Beach which would include outside 14:33:28</p> <p>16 of Fire Island as well, but it would also</p> <p>17 include other towns on Fire Island.</p> <p>18 A. Never.</p> <p>19 Q. Did any of the plaintiffs ever</p> <p>20 complain to you that any decision you made 14:33:39</p> <p>21 created a public safety issue?</p> <p>22 MR. GOODSTADT: Objection.</p> <p>23 A. Never.</p> <p>24 Q. Okay. Did any of the plaintiffs</p> <p>25 ever complain to you that they witnessed any 14:33:59</p>

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<p>1 Hesse</p> <p>2 officers drinking in bars while in uniform?</p> <p>3 A. No.</p> <p>4 Q. Did any of the plaintiffs ever</p> <p>5 complain to you with regard to their 14:34:11</p> <p>6 eyewitnessing any officers drinking in the</p> <p>7 bars when off duty?</p> <p>8 A. Not a complaint, but I knew.</p> <p>9 Q. All I care about is what the</p> <p>10 plaintiffs said to you? 14:34:27</p> <p>11 A. There was never a complaint.</p> <p>12 Q. That is what I am asking. So</p> <p>13 let's break it down a little bit and go back</p> <p>14 so the record is clear. Did any of the</p> <p>15 plaintiffs ever complain to you about any 14:34:35</p> <p>16 officers while off duty drinking in bars in</p> <p>17 Ocean Beach?</p> <p>18 A. No complaints.</p> <p>19 Q. Did any of the plaintiffs ever</p> <p>20 complain to you about the subject of you 14:34:57</p> <p>21 selectively enforcing the laws?</p> <p>22 A. No.</p> <p>23 Q. Did any of the plaintiffs ever</p> <p>24 complain to you about treating them</p> <p>25 differently than any other police officer? 14:35:14</p>	<p>1 Hesse</p> <p>2 box.</p> <p>3 For whatever reason they disagreed</p> <p>4 with me and they went to our judge at the</p> <p>5 time, Joe Russell, who sat as a criminal judge 14:36:37</p> <p>6 in our court, but was a civil attorney. I</p> <p>7 guess they asked him the same question, and he</p> <p>8 was like sure, you can do that. So they went</p> <p>9 over my head to somebody else that is not part</p> <p>10 of the Police Department to ask them 14:36:55</p> <p>11 permission to do it, and subsequently they</p> <p>12 started doing it.</p> <p>13 One evening I caught them outside</p> <p>14 the Police Department in the police car behind</p> <p>15 closed doors taking cash off of somebody for 14:37:07</p> <p>16 bail. Now the money was accounted for, so</p> <p>17 there was no suspect that they were stealing</p> <p>18 or anything. But as far as my previous wish</p> <p>19 that they do not do it, they were told not to</p> <p>20 do it, they did it anyway. And I have caught 14:37:25</p> <p>21 them since doing it.</p> <p>22 So they were reprimanded,</p> <p>23 counseled in personal by me.</p> <p>24 Q. Did Lamm ever complain to you</p> <p>25 about anything going on concerning the Ocean 14:37:42</p>
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<p>1 Hesse</p> <p>2 A. No.</p> <p>3 Q. Do you recall any complaints that</p> <p>4 Mr. Fiorillo ever made to you concerning</p> <p>5 anything involving the conduct of any police 14:35:33</p> <p>6 officer including him at Ocean Beach other</p> <p>7 than him complaining to you about washing the</p> <p>8 windows?</p> <p>9 A. No.</p> <p>10 Q. Were there any other examples of 14:35:39</p> <p>11 insubordination that you can think of with</p> <p>12 regard to Frank Fiorillo other than what you</p> <p>13 have testified to?</p> <p>14 A. Yes, there was you know at lunch I</p> <p>15 started thinking about it a little bit and 14:35:50</p> <p>16 there was one other incident that he and Kevin</p> <p>17 Lamm both came to me and asked for whatever</p> <p>18 reason if they could take bail, station house</p> <p>19 bail outside the station house, and I told</p> <p>20 them no. That is why it is called station 14:36:13</p> <p>21 house bail. You bring somebody in, you are</p> <p>22 going to bail them. You do it inside the</p> <p>23 confines of the station house. You fill out a</p> <p>24 receipt, you put it on the summons, you attach</p> <p>25 both with the cash and you drop it in the lock 14:36:29</p>	<p>1 Hesse</p> <p>2 Beach Police Department?</p> <p>3 MR. GOODSTADT: Objection.</p> <p>4 A. That is a little broad, but no, no</p> <p>5 complaints. 14:37:53</p> <p>6 Q. I tried to make it as broad as I</p> <p>7 can make it. Did Lamm ever complain to you</p> <p>8 about the Bosetti's?</p> <p>9 A. No.</p> <p>10 Q. Did Fiorillo ever complain to you 14:38:04</p> <p>11 about the Bosetti's?</p> <p>12 A. No.</p> <p>13 Q. Did Snyder ever complain to you</p> <p>14 about anything involving the conduct of any</p> <p>15 person affiliated with the Ocean Beach Police 14:38:19</p> <p>16 Department?</p> <p>17 A. No.</p> <p>18 Q. Same question with regard to</p> <p>19 Carter?</p> <p>20 A. No. 14:38:24</p> <p>21 Q. Same question with regard to Nofi?</p> <p>22 A. No.</p> <p>23 Q. Did any of the plaintiffs ever</p> <p>24 advise you that they were aware that there was</p> <p>25 an individual in town selling -- carrying 14:38:38</p>

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<p>1 Hesse</p> <p>2 lollipops that were laced with drugs?</p> <p>3 A. No, I never heard of that before.</p> <p>4 Q. Did the plaintiffs ever complain</p> <p>5 to you that the bars in Ocean Beach were 14:38:55</p> <p>6 permitting under age individuals drinking?</p> <p>7 A. Not specifically, no.</p> <p>8 Q. What about generally?</p> <p>9 A. We knew that it goes on, it is</p> <p>10 just a matter of catching them. 14:39:11</p> <p>11 Q. What if anything did the Ocean</p> <p>12 Beach Police Department do prior to April 2,</p> <p>13 2006 to enforce the laws concerning under age</p> <p>14 drinking in the bars on Ocean Beach?</p> <p>15 A. Specifically nothing. It was a 14:39:23</p> <p>16 case-by-case. If you caught them, you did.</p> <p>17 If you didn't, you didn't. It was one of</p> <p>18 those things.</p> <p>19 Q. If you saw what you believed --</p> <p>20 not you, but police officers were instructed 14:39:35</p> <p>21 that if they saw what they believed to be</p> <p>22 under age drinking going on either in or out</p> <p>23 of the bars they were to enforce the laws?</p> <p>24 A. Absolutely.</p> <p>25 Q. Did any of the plaintiffs ever 14:39:49</p>	<p>1 Hesse</p> <p>2 little bit more broader than that. Did you</p> <p>3 ever instruct the plaintiffs not to issue any</p> <p>4 summonses to any bars on Ocean Beach?</p> <p>5 A. No. 14:40:44</p> <p>6 Q. Did you ever instruct any of the</p> <p>7 plaintiffs to stay away from any particular</p> <p>8 entity and not issue summonses to them?</p> <p>9 A. No.</p> <p>10 Q. Did you ever instruct the 14:40:55</p> <p>11 plaintiffs not to -- any of the plaintiffs not</p> <p>12 to issue summonses to friends of yours?</p> <p>13 A. No.</p> <p>14 Q. Did you ever call Mr. Lamm a loser</p> <p>15 in front of any citizen at Ocean Beach? 14:41:07</p> <p>16 A. No.</p> <p>17 Q. Did you ever insult any of the</p> <p>18 plaintiffs in front of any citizens of Ocean</p> <p>19 Beach?</p> <p>20 A. No. 14:41:16</p> <p>21 MR. GOODSTADT: Objection.</p> <p>22 Q. Same question, did you ever insult</p> <p>23 any of the plaintiffs in front of any visitors</p> <p>24 to Ocean Beach?</p> <p>25 A. No. 14:41:25</p>
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<p>1 Hesse</p> <p>2 complain to you that the Bosetti's weren't</p> <p>3 enforcing the laws with regard to under age</p> <p>4 drinking?</p> <p>5 A. No. 14:39:54</p> <p>6 Q. Let me rephrase the question.</p> <p>7 Did any of the plaintiffs ever</p> <p>8 complain you to that the Bosetti's were not</p> <p>9 enforcing the laws as it pertained to under</p> <p>10 age drinking? 14:40:10</p> <p>11 A. No.</p> <p>12 Q. How about with -- did the</p> <p>13 plaintiffs ever complain to you that any other</p> <p>14 police officer wasn't enforcing the laws as to</p> <p>15 under age drinking? 14:40:20</p> <p>16 A. No.</p> <p>17 Q. Did they ever complain to you that</p> <p>18 you were not enforcing the laws as to under</p> <p>19 age drinking?</p> <p>20 A. No. 14:40:29</p> <p>21 Q. Did you ever instruct any of the</p> <p>22 plaintiffs not to issue a summons to any bar</p> <p>23 owner because he or she was a friend of yours?</p> <p>24 A. No.</p> <p>25 Q. Well let me actually make it a 14:40:38</p>	<p>1 Hesse</p> <p>2 MR. GOODSTADT: Objection.</p> <p>3 Q. I will try to make it even</p> <p>4 clearer. Did there ever come a time that you</p> <p>5 insulted, denigrated, cursed or embarrassed 14:41:38</p> <p>6 any of the plaintiffs in front of anybody</p> <p>7 other than police officers -- you know what,</p> <p>8 take a step back.</p> <p>9 Did he ever embarrass, denigrate,</p> <p>10 insult or ridicule any of the plaintiffs in 14:41:54</p> <p>11 front of anybody while they were police</p> <p>12 officers at Ocean Beach?</p> <p>13 A. No.</p> <p>14 Q. In the complaint the plaintiffs</p> <p>15 allege certain things regarding the Bosetti's 14:42:15</p> <p>16 throwing a file cabinet into the bay. Do you</p> <p>17 recall reading that. Do you recall reading</p> <p>18 that in the complaint?</p> <p>19 A. Yes.</p> <p>20 Q. Do you have knowledge, any 14:42:31</p> <p>21 knowledge as to what the plaintiffs were</p> <p>22 referring to when they made those allegations?</p> <p>23 A. Yes.</p> <p>24 Q. Can you describe for the court</p> <p>25 what your knowledge is with regard to those 14:42:39</p>

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1 **Hesse**
2 **allegations?**
3 A. I was told the story by Ed
4 Paradiso.
5 **Q. That is what I want to know. 14:42:46**
6 A. Basically it was an empty filing
7 cabinet, two or three tears, you know like
8 just a short filing cabinet, and it was thrown
9 into the marina, the middle marina by I
10 believe Rich Bosetti. 14:43:05
11 **Q. What else did Ed Paradiso tell**
12 **you?**
13 A. I remember that it was a
14 lifeguard, Johnny Bucksbaum, that was asked to
15 go in and retrieve it. They retrieved it, 14:43:16
16 they opened it, it was empty. I think there
17 was some blank fingerprint cards in it.
18 **Q. This is what Ed Paradiso told you?**
19 A. Yes, he did.
20 **Q. And were you in the village the 14:43:30**
21 **night or -- were you in the village at the**
22 **time that the Bosetti's through the file**
23 **cabinet in?**
24 A. No.
25 **Q. What involvement if any do you 14:43:37**

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1 **Hesse**
2 **have with regard to anything involving the**
3 **incident involving the file cabinet being**
4 **thrown in the bay?**
5 MR. GOODSTADT: Objection. 14:43:49
6 A. Absolutely none.
7 **Q. Did you ever speak to Mr. Fiorillo**
8 **about that incident?**
9 A. No.
10 **Q. Ever speak with Lamm? 14:43:53**
11 A. No.
12 **Q. Nofi?**
13 A. No.
14 **Q. Lamm?**
15 A. No. 14:43:57
16 **Q. Carter?**
17 A. No.
18 **Q. Snyder?**
19 A. No.
20 **Q. Let's go to the incident -- not 14:44:02**
21 **the incident, let's go to the allegation**
22 **concerning you putting Fiorillo on the same**
23 **shift for three straight days, same tour three**
24 **straight days and he couldn't move a muscle.**
25 **Do you recall those allegations? 14:44:58**

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1 **Hesse**
2 A. Yes.
3 **Q. Are those allegations true or**
4 **false?**
5 A. False. 14:45:02
6 **Q. I think you admitted though you**
7 **did put Mr. Fiorillo on the same tour for**
8 **three state days?**
9 A. That was his scheduled tour by Ed
10 Paradiso. 14:45:15
11 **Q. I am sorry, the same place?**
12 A. Yes, it was the general area.
13 **Q. So Mr. Paradiso had put Mr.**
14 **Fiorillo on the corner of Denhoff and Bay**
15 **Walk? 14:45:25**
16 A. No, you misunderstand. He
17 scheduled the shifts, but I put him on that
18 post.
19 **Q. The post, thank you, and the post**
20 **was Denhoff and Bay Walk? 14:45:33**
21 A. Yes.
22 **Q. What were the responsibilities of**
23 **the police officers who were assigned to this**
24 **post?**
25 MR. GOODSTADT: Objection. 14:45:43

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1 **Hesse**
2 A. It is basically a west end post,
3 it is just not Denhoff and Bay Walk. We just
4 called it that. But you had everything from
5 the police station west of that area that 14:45:53
6 encompassed about four or five blocks.
7 **Q. So what was a police officer that**
8 **you assigned to that post supposed to do as**
9 **part of his duties and responsibilities**
10 **associated with that post? 14:46:05**
11 A. Generally a regular patrol.
12 **Q. I am not a police officer, so --**
13 A. Basically he walked the area.
14 There is about one, two, three, four, five
15 bars in that area and one, two, three -- about 14:46:18
16 ten storefronts in that area, and that was his
17 post.
18 **Q. And you categorically deny that**
19 **you told Mr. Fiorillo that he had to stand**
20 **under that light post for three straight days 14:46:37**
21 **without moving a muscle?**
22 A. Yes, that wasn't true.
23 MR. GOODSTADT: We have a classic
24 material issue effect.
25 MR. NOVIKOFF: Yes, but it is not 14:46:58

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<p>1 Hesse</p> <p>2 relevant.</p> <p>3 MR. GOODSTADT: That is why we</p> <p>4 asked questions.</p> <p>5 MR. NOVIKOFF: You put it in your 14:47:09</p> <p>6 complaint.</p> <p>7 Q. So Mr. Hesse, let me ask you this,</p> <p>8 I think the jury would want to know. Why did</p> <p>9 you do that?</p> <p>10 MR. GOODSTADT: Objection. 14:47:17</p> <p>11 A. Like I stated --</p> <p>12 MR. NOVIKOFF: What?</p> <p>13 MR. GOODSTADT: Do what?</p> <p>14 Q. I thought it was clear we were</p> <p>15 referring back to the prior question. I will 14:47:25</p> <p>16 make the question clear.</p> <p>17 Why did you assign Mr. Fiorillo to</p> <p>18 that post for three straight tours?</p> <p>19 A. His regular duty performance was</p> <p>20 to operate a golf cart. He liked it. That is 14:47:40</p> <p>21 what he liked to do. It is called a G.E.M.</p> <p>22 car, and he would go on residential patrol.</p> <p>23 That is what he liked to do. So I would</p> <p>24 assign him that regular post because like I</p> <p>25 said that is what he liked to do. 14:48:00</p>	<p>1 Hesse</p> <p>2 checkpoints?</p> <p>3 MR. GOODSTADT: Objection.</p> <p>4 A. I know what they mean.</p> <p>5 Q. What do they mean? 14:49:05</p> <p>6 A. Our checkpoint, the checkpoint --</p> <p>7 Q. Break it down. Have you ever</p> <p>8 instructed officers to drive other officers to</p> <p>9 checkpoints?</p> <p>10 A. Yes. 14:49:18</p> <p>11 Q. Tell the jury why you would do</p> <p>12 that?</p> <p>13 A. End of tour, if a guy did overtime</p> <p>14 and he had to get out of there we would</p> <p>15 normally drive them out, and that was our 14:49:28</p> <p>16 relief point, that is what we did every day</p> <p>17 three, four to five times a day. That is what</p> <p>18 we did.</p> <p>19 Q. When you say that was your relief</p> <p>20 point, for the people who don't know what that 14:49:39</p> <p>21 means, what do you mean?</p> <p>22 A. That would be where we would pick</p> <p>23 up the police car and we would relief guys</p> <p>24 going on deputy and off duty, and that is</p> <p>25 where we make the exchange. 14:49:47</p>
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<p>1 Hesse</p> <p>2 Because of his actions that day of</p> <p>3 insubordination I felt that a suitable</p> <p>4 punishment would be to take him out of the</p> <p>5 G.E.M. car and put him on a foot post. 14:48:12</p> <p>6 Q. You did that for three straight</p> <p>7 tours?</p> <p>8 A. I don't know if it was three</p> <p>9 tours. They say it was three tours. It might</p> <p>10 have been a tour and a half or two tours 14:48:24</p> <p>11 maybe. I am a little bit of a lenient guy, I</p> <p>12 don't know.</p> <p>13 Q. The plaintiffs make a number of</p> <p>14 allegations about driving officers to</p> <p>15 checkpoints? 14:48:36</p> <p>16 A. Yes.</p> <p>17 Q. Either these officers being drunk</p> <p>18 or some of them not being drunk. Do you</p> <p>19 remember those allegations?</p> <p>20 A. Yes. 14:48:47</p> <p>21 Q. Let's talk about that for a little</p> <p>22 bit. Do you have an understanding as to what</p> <p>23 the plaintiffs are talking about when they</p> <p>24 make allegations about you directing them to</p> <p>25 drive other police officers to the 14:48:59</p>	<p>1 Hesse</p> <p>2 Q. Would the relief point be where</p> <p>3 officers would drive their owns cars to start</p> <p>4 their shifts?</p> <p>5 A. Yes. 14:49:58</p> <p>6 Q. Unless they took a boat over?</p> <p>7 A. Yes.</p> <p>8 Q. Were the plaintiffs the only</p> <p>9 officers that you ever instructed to drive</p> <p>10 other officers to the relief point? 14:50:10</p> <p>11 A. No.</p> <p>12 Q. Did you ever instruct any of the</p> <p>13 plaintiffs to drive a drunken police officer</p> <p>14 who had just finished his tour to the</p> <p>15 checkpoint? 14:50:22</p> <p>16 A. No.</p> <p>17 MR. GOODSTADT: Objection.</p> <p>18 Q. Did any of the plaintiffs ever</p> <p>19 object to you directing them to drive any</p> <p>20 police officer to a checkpoint? 14:50:37</p> <p>21 A. No.</p> <p>22 Q. Did the plaintiffs ever complain</p> <p>23 to you that you left the village shorthanded</p> <p>24 by instructing them to drive any other off</p> <p>25 duty police officer to the checkpoint? 14:50:53</p>

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<p>1 Hesse</p> <p>2 A. No.</p> <p>3 Q. In your opinion did you leave the</p> <p>4 village shorthanded when you directed one</p> <p>5 officer to drive an off duty police officer to 14:51:01</p> <p>6 the checkpoint?</p> <p>7 A. No.</p> <p>8 Q. Let's talk about the termination a</p> <p>9 little bit, but more specifically because I</p> <p>10 think Mr. Goodstadt covered it with you this 14:51:32</p> <p>11 morning. Let's address specifically April 2,</p> <p>12 2004. What time did the meeting start?</p> <p>13 A. You mean 2006.</p> <p>14 Q. 2006, sorry. What time did the</p> <p>15 meeting start? 14:51:48</p> <p>16 A. 11ish maybe.</p> <p>17 Q. What time did it end?</p> <p>18 A. I don't recall. It could have</p> <p>19 gone a couple of hours.</p> <p>20 Q. When in relation to 11 o'clock did 14:51:58</p> <p>21 you begin the process of informing the</p> <p>22 plaintiffs privately that they were not going</p> <p>23 to be rehired?</p> <p>24 A. That was my first order of</p> <p>25 business. 14:52:08</p>	<p>1 Hesse</p> <p>2 started.</p> <p>3 Q. Where did the general meeting take</p> <p>4 place?</p> <p>5 A. It was in the boat house in Ocean 14:53:08</p> <p>6 Beach, or known as the boat house.</p> <p>7 Q. How long did that meeting go on</p> <p>8 for?</p> <p>9 A. A few hours maybe.</p> <p>10 Q. Were you at a podium and was 14:53:15</p> <p>11 everybody else sitting, or were you in seats</p> <p>12 or in a circle?</p> <p>13 A. No, they all sat facing me and I</p> <p>14 stood or sat behind the table.</p> <p>15 Q. Did you make any comments during 14:53:31</p> <p>16 this meeting that you just described regarding</p> <p>17 any of those four plaintiffs?</p> <p>18 A. No.</p> <p>19 Q. Did you make any derogatory</p> <p>20 comments about those four plaintiffs? 14:53:45</p> <p>21 A. No.</p> <p>22 Q. Did you call them anything; did</p> <p>23 you make reference to them at all in this</p> <p>24 meeting?</p> <p>25 A. I was asked what happened. 14:53:52</p>
Page 748	Page 750
<p>1 Hesse</p> <p>2 Q. And after you told them that they</p> <p>3 were not rehired and you said whatever you</p> <p>4 said and they said whatever they said did you</p> <p>5 direct them to leave the island, the village? 14:52:14</p> <p>6 A. Yes. I set up a water taxi to be</p> <p>7 there so they didn't have to stand around and</p> <p>8 be gawked at and, you know, I paid for the</p> <p>9 water taxi and everything.</p> <p>10 Q. Now to your knowledge did they go 14:52:30</p> <p>11 on the water taxi or did they stay and linger</p> <p>12 in the village?</p> <p>13 A. They got on the water taxi.</p> <p>14 Q. So approximately if the meeting</p> <p>15 started at 11 and that was the first order of 14:52:41</p> <p>16 business, at what point in time do you recall</p> <p>17 them being on the water taxi and going off the</p> <p>18 island?</p> <p>19 A. By the time we settled in and I</p> <p>20 started talking to them it could have been an 14:52:53</p> <p>21 hour at most.</p> <p>22 Q. Then what did you do after you</p> <p>23 spoke to the four plaintiffs that you spoke to</p> <p>24 that morning?</p> <p>25 A. They left and the general meeting 14:53:01</p>	<p>1 Hesse</p> <p>2 Q. Who asked you?</p> <p>3 A. Some of the other police officers.</p> <p>4 Q. Okay. Do you recall who?</p> <p>5 A. Well, what had happened was I 14:54:01</p> <p>6 started calling in officers one at a time</p> <p>7 because I was doing a one-on-one with some</p> <p>8 other guys, and I think a lot of people had</p> <p>9 feared that they were going too. So I was</p> <p>10 asked what had happened and I basically 14:54:17</p> <p>11 explained that they won't be returning this</p> <p>12 year, and we just proceeded with our meeting</p> <p>13 and I tried to stay off of it.</p> <p>14 Q. So other than in those one-on-ones</p> <p>15 did you ever in front of the entire group make 14:54:29</p> <p>16 any reference to the plaintiffs?</p> <p>17 A. No.</p> <p>18 Q. Direct or indirect?</p> <p>19 A. No.</p> <p>20 MR. NOVIKOFF: Off the record. 14:54:48</p> <p>21 THE VIDEOGRAPHER: The time is</p> <p>22 2:56, we are off the record.</p> <p>23 (Recess taken.)</p> <p>24 THE VIDEOGRAPHER: The time is</p> <p>25 3:06, we are on the record. 15:04:38</p>

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1 Hesse

2 Q. Now, Mr. Hesse, let's go to

3 Exhibit 27.

4 A. Okay.

5 Q. This document was dated March 11, 15:05:10

6 2006; correct?

7 A. Yes.

8 Q. Did the 2006 season start as of

9 March 11, 2006?

10 A. No. 15:05:25

11 Q. The meeting was held on April 2,

12 2006, had the season started as of April 2,

13 2006?

14 A. No.

15 Q. When did the season start in 2006? 15:05:34

16 A. The season usually starts two

17 weeks before Memorial Day.

18 Q. May 31st or around that time?

19 A. 28th, early, late, it depends.

20 Q. Once you made the decisions as to 15:05:47

21 whom you were going to -- let me take a step

22 back. You answered some questions by Mr.

23 Goodstadt concerning your communications with

24 Allison Chester concerning what your rights

25 were and what the plaintiff's rights were? 15:06:02

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1 Hesse

2 A. Yes.

3 Q. Let's break it down. Why did you

4 call Ms. Chester prior to March -- I'm sorry,

5 prior to April 2, 2006 with regard to what the 15:06:12

6 plaintiffs' rights were?

7 A. I wanted to make sure that, you

8 know, that I did the right thing.

9 Q. In terms of what?

10 A. I didn't want to do anything that 15:06:24

11 was illegal.

12 Q. What was the reason why you asked

13 Ms. Chester what your rights were?

14 A. I wanted to make sure that once

15 again I didn't do anything illegal. 15:06:43

16 Q. When you say anything illegal, you

17 mean with regard to your decision to not

18 rehire the plaintiffs for the season; is that

19 correct?

20 A. Right, based on Civil Service law. 15:06:55

21 Q. When were you appointed Acting

22 Deputy Chief?

23 A. I think it was January either 8th

24 or 18th or 6th. Somewhere in January of 2006.

25 Q. Between the time that Chief 15:07:13

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1 Hesse

2 Paradiso went out for good in September of

3 2005.

4 A. Right.

5 Q. And the time that you were 15:07:19

6 appointed by board resolution to be acting

7 chief, who was responsible for scheduling

8 tours?

9 A. I was.

10 Q. Now, did the season -- the 2005 15:07:30

11 season ended sometime in October?

12 A. September it really ends, two

13 weeks after Labor Day.

14 Q. So middle of September?

15 A. Yes. 15:07:48

16 Q. Between the middle of September

17 and January did you have to schedule officers

18 to work part-time?

19 A. Yes.

20 Q. There is a difference between 15:07:59

21 being -- at least to your understanding for

22 Ocean Beach was there a difference between

23 being a seasonal officer and being an off

24 season part-time officer?

25 A. Yes, it is a title thing. 15:08:11

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1 Hesse

2 Q. So with regard now only to the off

3 season in 2005 between mid September and the

4 end of December 2005 did you schedule to your

5 knowledge any of the plaintiffs to do 15:08:28

6 part-time shifts?

7 A. Yes.

8 Q. Who did you schedule?

9 A. Tom Snyder, Eddie Carter. I

10 believe Nofi did maybe one or two tours. And 15:08:41

11 Frank Fiorillo did either one or two tours.

12 Q. During that period of time had you

13 had any reason to consider whether or not --

14 well, withdrawn.

15 During that period of time were 15:08:56

16 you aware that you were going to be given the

17 responsibilities as Acting Deputy Chief in

18 2006?

19 A. No.

20 Q. When did you first learn that you 15:09:06

21 were going to be considered to be the Acting

22 Deputy Chief?

23 A. I think in late December.

24 Q. And when were you advised that you

25 were going to actually be voted upon to be the 15:09:18

Page 755	Page 757
<p>1 Hesse</p> <p>2 Acting Deputy Chief?</p> <p>3 A. Maybe a week before.</p> <p>4 Q. At what point in time did you</p> <p>5 begin to formulate an opinion as to whether or 15:09:28</p> <p>6 not you were going to rehire any of the five</p> <p>7 plaintiffs for the 2006 season?</p> <p>8 A. When the job became mine in</p> <p>9 January through February and March I started</p> <p>10 thinking about what I wanted to do and how I 15:09:49</p> <p>11 wanted the department to go forward and I made</p> <p>12 a decision.</p> <p>13 Q. Let's talk about that. How did</p> <p>14 you want the department to go forward once you</p> <p>15 learned that you were going to be the Acting 15:10:00</p> <p>16 Deputy Chief?</p> <p>17 A. I wanted the department to be a</p> <p>18 little more respectful, a little more</p> <p>19 understanding of the needs of the village. We</p> <p>20 are a very community service oriented Police 15:10:15</p> <p>21 Department. We handle everything from a</p> <p>22 splinter in a baby, to a dog fighting, noise,</p> <p>23 bar fights, to possibly rape, or being stab or</p> <p>24 short of murder. So I mean I wanted the</p> <p>25 department to move in a different direction. 15:10:36</p>	<p>1 Hesse</p> <p>2 A. Where is your fucking ID, how come</p> <p>3 you don't have your ID, this is illegal.</p> <p>4 Q. Hold on, you got to go slowly.</p> <p>5 What else? 15:11:43</p> <p>6 A. You should know better. You</p> <p>7 should always have your ID on you. But I mean</p> <p>8 yelling at these people.</p> <p>9 Q. How did you learn of this, this</p> <p>10 specific example? 15:12:02</p> <p>11 A. This specific example, I was</p> <p>12 called to the scene.</p> <p>13 Q. By whom?</p> <p>14 A. By another police officer.</p> <p>15 Q. Did the woman complain to you 15:12:11</p> <p>16 about how she was spoken to?</p> <p>17 A. Yes.</p> <p>18 Q. What was Mr. Fiorillo's response</p> <p>19 if any?</p> <p>20 A. That she was a bitch and that, you 15:12:19</p> <p>21 know, she disrespected him.</p> <p>22 Q. Did Mr. Fiorillo indicate how she</p> <p>23 disrespected him?</p> <p>24 A. Just by talking back.</p> <p>25 Q. Did Mr. Fiorillo explain to you 15:12:30</p>
Page 756	Page 758
<p>1 Hesse</p> <p>2 Q. Did Mr. Fiorillo fit within the</p> <p>3 type of Police Department that you wanted</p> <p>4 Ocean Beach to become upon your appointment to</p> <p>5 Acting Chief? 15:10:49</p> <p>6 A. In my opinion, no.</p> <p>7 Q. Why not?</p> <p>8 A. I think he was a little too abrupt</p> <p>9 with the community and the people who</p> <p>10 vacationed there. I tried to instill in a lot 15:10:58</p> <p>11 of these guys that people come there to have</p> <p>12 fun, and we are there to make sure that they</p> <p>13 do it safely and within the scope of the law.</p> <p>14 Q. When you say too abrupt, can you</p> <p>15 give me some examples? 15:11:13</p> <p>16 A. Yeah, we have one of these silly</p> <p>17 laws where you can't bike ride during the</p> <p>18 summer season, and let's say Officer Fiorillo</p> <p>19 would pull over this woman for riding her</p> <p>20 bike, and because she failed to have 15:11:27</p> <p>21 identification on her he would berate her and</p> <p>22 yell at her, and that is not what we are</p> <p>23 doing, that is not what we are there for.</p> <p>24 Q. When you say berate and yell what</p> <p>25 do you mean? 15:11:43</p>	<p>1 Hesse</p> <p>2 why he considered her to be a bitch?</p> <p>3 A. He felt that she had an attitude,</p> <p>4 a certain attitude.</p> <p>5 Q. What if anything did you do with 15:12:38</p> <p>6 regard to Mr. Fiorillo upon receipt of this</p> <p>7 complaint by this woman?</p> <p>8 A. Well, I let him continue to write</p> <p>9 the summons. I told him not to say another</p> <p>10 word, that was between me and him, I didn't do 15:12:54</p> <p>11 it in front of her, I pulled him aside a</p> <p>12 little bit. I said just calm down, it is a</p> <p>13 bike riding ticket, write the ticket and let</p> <p>14 her go, and that is it.</p> <p>15 Q. Any other examples that you can 15:13:06</p> <p>16 think of as you sit here today?</p> <p>17 A. Similar complaints. We had one</p> <p>18 kid whose father came to talk to me who</p> <p>19 happens to be a corrections officer, Tom</p> <p>20 Foley, his son was stopped for riding his bike 15:13:22</p> <p>21 at night. The kid, maybe he mouth off a</p> <p>22 little bit to him, but Frank threatened to</p> <p>23 shoot him in the head. The father came down</p> <p>24 and complained with his son that Frank stated</p> <p>25 he was going to shoot him in the head. 15:13:39</p>

<p style="text-align: right;">Page 759</p> <p>1 Hesse</p> <p>2 Q. Shoot him in the head or shoot him</p> <p>3 in the face?</p> <p>4 A. I think it was shoot him in the</p> <p>5 head. 15:13:46</p> <p>6 Q. Did you speak to Mr. Fiorillo</p> <p>7 concerning this?</p> <p>8 A. Yes.</p> <p>9 Q. What was Mr. Fiorillo's response</p> <p>10 to you if any? 15:13:52</p> <p>11 A. He said that the kid was irate, he</p> <p>12 was throwing his bike around, and I told him,</p> <p>13 I said Frank, you know what, I don't care, you</p> <p>14 just don't talk to people like that. I talked</p> <p>15 to other witnesses that were there and they 15:14:07</p> <p>16 said that is not what happened. Frank just</p> <p>17 went off on one of his regular tears and</p> <p>18 started to yell and berate this guy in the</p> <p>19 street.</p> <p>20 Q. When you say regular tears, what 15:14:19</p> <p>21 do you mean?</p> <p>22 A. This was a usual thing with Frank.</p> <p>23 You know, he carried the badge and he carried</p> <p>24 a chip on his shoulder. It was just a regular</p> <p>25 occurrence. 15:14:28</p>	<p style="text-align: right;">Page 761</p> <p>1 Hesse</p> <p>2 police station to verify who she was. I mean</p> <p>3 is that really a crime; what does it take.</p> <p>4 How much does the village have to take.</p> <p>5 Q. Let me just clarify this. There 15:15:53</p> <p>6 was an occasion where an 86 year old woman was</p> <p>7 on a bike, she --</p> <p>8 A. No, she was eating peanuts on the</p> <p>9 beach.</p> <p>10 Q. She didn't have ID and Mr. 15:16:04</p> <p>11 Fiorillo escorted this woman back to the</p> <p>12 police station to verify that she was in fact</p> <p>13 who she was?</p> <p>14 A. Yes.</p> <p>15 Q. You said that Paradiso knew all 15:16:13</p> <p>16 this. Now I am only concerned about Mr.</p> <p>17 Fiorillo for the time being. What do you mean</p> <p>18 that Paradiso knew all about this?</p> <p>19 A. Frank worked split tours. He</p> <p>20 would partially for me and he would work 15:16:29</p> <p>21 partially for Ed Paradiso, and Ed Paradiso</p> <p>22 would encourage him to go out there and do</p> <p>23 these types of summonses.</p> <p>24 Q. Did you ever discuss with Paradiso</p> <p>25 why he was encouraging Fiorillo to do these 15:16:42</p>
<p style="text-align: right;">Page 760</p> <p>1 Hesse</p> <p>2 Q. Let me ask you a question. I am</p> <p>3 sure Mr. Goodstadt will ask you this question</p> <p>4 if he has not already. How come you didn't</p> <p>5 advice Mr. Paradiso that in your opinion 15:14:37</p> <p>6 Fiorillo should not be rehired?</p> <p>7 A. He knew. He knew. He dealt with</p> <p>8 him. But you know what, Ed Paradiso had a</p> <p>9 different outlook on things than I did. He</p> <p>10 enjoyed the misery of sending these guys out 15:14:54</p> <p>11 there to do this kind of thing. He was happy</p> <p>12 they didn't have discretion, because we have</p> <p>13 such silly laws that in our village code book,</p> <p>14 eating on the beach, drinking on the beach,</p> <p>15 not alcohol, but regular beverages on the 15:15:12</p> <p>16 beach. You can't eat or drink past a certain</p> <p>17 point on a certain street. The bike riding</p> <p>18 laws. You name it. Ball playing on the</p> <p>19 beach. He is out there writing a father for</p> <p>20 throwing a tennis ball to his son. 15:15:30</p> <p>21 These are the kind of things that</p> <p>22 went on on a regular basis. He took this poor</p> <p>23 86 year old woman who didn't have ID eating</p> <p>24 peanuts on the beach and because she didn't</p> <p>25 have ID he would escort her all the way to the 15:15:42</p>	<p style="text-align: right;">Page 762</p> <p>1 Hesse</p> <p>2 types of summonses?</p> <p>3 A. No, not really.</p> <p>4 Q. Did you -- I am trying to</p> <p>5 understand. Why didn't you ever tell Paradiso 15:16:53</p> <p>6 hey, Fiorillo is just, you know, in my opinion</p> <p>7 he should not be rehired?</p> <p>8 A. You know, it is such a small</p> <p>9 village and in conversation I don't want to</p> <p>10 say I never said it, I may have said it. But, 15:17:07</p> <p>11 you know, I don't know for sure if we talked</p> <p>12 about it. We talked about a lot of -- like I</p> <p>13 said earlier I never saw eye to eye with Ed</p> <p>14 Paradiso on a lot of things. I would come in</p> <p>15 for my tour he would already be done. He 15:17:27</p> <p>16 would come in late.</p> <p>17 It was hard to talk to him. I</p> <p>18 mean towards the end of his rein it just --</p> <p>19 the department was falling apart, and I blame</p> <p>20 it on him and I blame it on type of 15:17:38</p> <p>21 enforcement that was going on. So...</p> <p>22 Q. So you thought for want of a</p> <p>23 better term it would have been a futile act to</p> <p>24 ask Ed not to rehire Fiorillo?</p> <p>25 A. Absolutely it was a futile act. 15:17:53</p>

<p style="text-align: right;">Page 763</p> <p>1 Hesse</p> <p>2 Absolutely.</p> <p>3 Q. Because Paradiso knew what</p> <p>4 Fiorillo was doing?</p> <p>5 A. Yes. Paradiso would go to these 15:17:57</p> <p>6 board meetings and sit there, and people would</p> <p>7 yell about certain things, noise, this, that</p> <p>8 the other thing. And he used Frank as a tool</p> <p>9 of the Police Department to just go out there</p> <p>10 and just hammer these people into submission, 15:18:11</p> <p>11 and that is not what we are supposed to.</p> <p>12 Q. In your opinion Mr. Fiorillo would</p> <p>13 not have reflected the type of Police</p> <p>14 Department that you wanted?</p> <p>15 A. That is correct. 15:18:23</p> <p>16 Q. So when you became in control of</p> <p>17 who was to be rehired and who was not, you</p> <p>18 made the decision not to hire Mr. Fiorillo?</p> <p>19 A. That is correct.</p> <p>20 Q. Now you talked about some silly 15:18:32</p> <p>21 laws that were on the books. Between the</p> <p>22 season of 2006 when you first were the Acting</p> <p>23 Chief and this season, 2009, has the</p> <p>24 enforcement of those silly laws as you put it</p> <p>25 increased or decreased? 15:18:48</p>	<p style="text-align: right;">Page 765</p> <p>1 Hesse</p> <p>2 afraid to write them because they didn't</p> <p>3 really -- you know, there were getting the</p> <p>4 idea how to write them, but I think they were</p> <p>5 just cautious on how many they were writing 15:20:13</p> <p>6 just to get the feel of it.</p> <p>7 Q. Let's talk about Mr. Lamm. Was</p> <p>8 Mr. Lamm in your opinion the type of officer</p> <p>9 that you wanted in the department as you saw</p> <p>10 the department should be once you became the 15:20:36</p> <p>11 Acting Chief?</p> <p>12 A. No.</p> <p>13 Q. He why not?</p> <p>14 A. He was a lot like Fiorillo.</p> <p>15 Showed no discretion. You know, from time to 15:20:44</p> <p>16 time he would have to be counseled, talked to</p> <p>17 about certain actions that he took.</p> <p>18 Specifically -- it started to get to the point</p> <p>19 where under our village code he started</p> <p>20 handcuffing individuals and bringing them to 15:21:05</p> <p>21 the Police Department to issue summonses for a</p> <p>22 Village violation where he should be doing it</p> <p>23 out on his post where he was to begin with.</p> <p>24 Q. I don't understand, what do you</p> <p>25 mean? 15:21:19</p>
<p style="text-align: right;">Page 764</p> <p>1 Hesse</p> <p>2 A. Well I made a lot of changes. It</p> <p>3 was hard to establish a, you know, a statistic</p> <p>4 because I changed all the paperwork.</p> <p>5 Midstream through 2006 I changed the summons 15:19:02</p> <p>6 format. So I had to retrain and re-educate my</p> <p>7 guys on how to write the summonses correctly.</p> <p>8 There was a lot of issues.</p> <p>9 Now I mean that we are in to 2009</p> <p>10 it is up. I mean we enforce, we still enforce 15:19:16</p> <p>11 those silly laws, but we do it with respect.</p> <p>12 Q. So when you say you had to retrain</p> <p>13 your officers, what do you mean?</p> <p>14 A. Basically a lot of the paperwork</p> <p>15 changed. So I had to sit down as a group and 15:19:34</p> <p>16 explain what I expected on the summons, how to</p> <p>17 issue the summons. We even changed because it</p> <p>18 is a four-page document which document you</p> <p>19 give to the defendant.</p> <p>20 Q. Let me ask you this, I am not 15:19:46</p> <p>21 trying to be argumentative, I am trying to</p> <p>22 understand. How did the change in the summons</p> <p>23 affect the amount of summonses up or down that</p> <p>24 were issued with regard to these silly laws?</p> <p>25 A. I think some of the guys were 15:20:03</p>	<p style="text-align: right;">Page 766</p> <p>1 Hesse</p> <p>2 A. So he would be walking down the</p> <p>3 street where he would see some suspect pissing</p> <p>4 in public. He would throw the guy in</p> <p>5 handcuffs, toss him, do an illegal search and 15:21:27</p> <p>6 seizure because what the heck are you looking</p> <p>7 for, number one you have no probable cause.</p> <p>8 Bring the guy to the police station and issue</p> <p>9 him a summons and then unhandcuff him and let</p> <p>10 him go. 15:21:43</p> <p>11 Q. What should he have done?</p> <p>12 A. Wrote the summons right there.</p> <p>13 Show me some ID, check it out, make sure it is</p> <p>14 a valid ID, write the summons and send the guy</p> <p>15 on his way. 15:21:51</p> <p>16 Q. Did Paradiso instruct him to put</p> <p>17 these people in handcuffs and take them to the</p> <p>18 police station?</p> <p>19 A. No.</p> <p>20 Q. Did you ever instruct Kevin to 15:22:00</p> <p>21 stop putting people in handcuffs for pissing</p> <p>22 in public type violations?</p> <p>23 A. Yes, I did.</p> <p>24 Q. Did he listen to you?</p> <p>25 A. No, he did not. 15:22:16</p>

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<p>1 Hesse</p> <p>2 Q. Was that an act of</p> <p>3 insubordination?</p> <p>4 A. Yes, it was.</p> <p>5 Q. Did that have any impact on your 15:22:19</p> <p>6 decision as to whether or not Mr. Lamm was the</p> <p>7 type of officer that you wanted on your police</p> <p>8 force going forward in light of the changes</p> <p>9 that you wanted to make?</p> <p>10 A. Right, I didn't want him any 15:22:26</p> <p>11 longer with the department.</p> <p>12 Q. Are there any other examples that</p> <p>13 you can think of where you instructed Mr. Lamm</p> <p>14 while he was working on your shift to do</p> <p>15 something as it related to summonses that he 15:22:36</p> <p>16 didn't do?</p> <p>17 A. To summonses that he didn't do;</p> <p>18 not that I can think of.</p> <p>19 Q. How about generally, do you recall</p> <p>20 any other examples where he just disregarded 15:22:47</p> <p>21 one of your directions or instructions?</p> <p>22 A. Yes, there was one other time that</p> <p>23 I can think of, this is really towards the end</p> <p>24 of his employ. We just got this big guy off</p> <p>25 the water taxi, the guy was probably 6 foot 2, 15:23:03</p>	<p>1 Hesse</p> <p>2 your observations or what you were told?</p> <p>3 A. His demeanor was abrupt also. You</p> <p>4 know every time you stop somebody and write</p> <p>5 them a summons they are going to question your 15:24:33</p> <p>6 authority, they are going to do something.</p> <p>7 You know you take it as for what it is worth.</p> <p>8 But Kevin Lamm, he would step right into you,</p> <p>9 almost provoke the guy into a fight. That is</p> <p>10 not the demeanor that we need in this Police 15:24:46</p> <p>11 Department.</p> <p>12 Q. What about Joe Nofi, in your</p> <p>13 opinion was he the type of officer that you</p> <p>14 wanted to be in your department given the</p> <p>15 changes that you wanted to make? 15:25:04</p> <p>16 A. No.</p> <p>17 Q. Why not?</p> <p>18 A. Simply put Joe Nofi was a goof</p> <p>19 ball. You know, he was a nice guy, but he was</p> <p>20 just a goof ball. I mean paperwork was shoddy 15:25:16</p> <p>21 at best. Summonses were horrible, illegible,</p> <p>22 illiterate. And then if somebody was walking</p> <p>23 in front of him and he was not wearing a</p> <p>24 shirt, which is another one of our silly laws</p> <p>25 in town, he wouldn't walk up to the guy and 15:25:37</p>
Page 768	Page 770
<p>1 Hesse</p> <p>2 240 and huge. And I was able to calm this</p> <p>3 individual down, I was able to get him off the</p> <p>4 water taxi. I forget what the disturbance was</p> <p>5 on the taxi, whether he was not listening to 15:23:18</p> <p>6 the captain's command to sit down, stop</p> <p>7 drinking, smoking or whatever it was, and we</p> <p>8 had about five officers in a line because this</p> <p>9 guy was so big and we were worried that maybe</p> <p>10 he may act inappropriate, attack us, punch 15:23:38</p> <p>11 somebody, who knows, he was irate.</p> <p>12 And I am talking to the guy and I</p> <p>13 am walking him down the street and Kevin out</p> <p>14 of nowhere says you fucking asshole, I will</p> <p>15 kick your ass and the guy steps at us, and I 15:23:56</p> <p>16 actually had to reprimand Kevin right there on</p> <p>17 the spot, tell him to shut up, and step</p> <p>18 between him and the guy and get this guy to</p> <p>19 turn around and keep walking. This is not a</p> <p>20 police officer that we needed working in the 15:24:09</p> <p>21 department.</p> <p>22 Q. While we are on that subject, you</p> <p>23 talked about Mr. Fiorillo's demeanor with the</p> <p>24 public. What was Mr. Lamm's demeanor in the</p> <p>25 public like; in your opinion based upon either 15:24:19</p>	<p>1 Hesse</p> <p>2 just say excuse me, sir, you can't walk around</p> <p>3 without a shirt on. He would say hey asshole,</p> <p>4 come here. That is what he would do.</p> <p>5 I would have to tell him, counsel 15:25:46</p> <p>6 him, Joe, don't talk to people like that. Go</p> <p>7 over, excuse me, sir, this is what you need to</p> <p>8 do. Same thing when it pertained to anything,</p> <p>9 he would act the same way all the time. I did</p> <p>10 not want it to continue under my command. 15:26:02</p> <p>11 Q. Let me ask you, you said something</p> <p>12 about Joe Nofi's -- was it Joe Nofi's</p> <p>13 summonses were illiterate or that Joe Nofi was</p> <p>14 illiterate?</p> <p>15 A. The summonses. 15:26:12</p> <p>16 Q. Then let me ask you this. Did you</p> <p>17 ever advise Paradiso, hey, you know what, I</p> <p>18 don't think Nofi should be rehired for the</p> <p>19 next season because of how he treated the</p> <p>20 public in your opinion? 15:26:31</p> <p>21 A. Specifically no. Every year we</p> <p>22 were shorthanded, so we had to work with what</p> <p>23 we had.</p> <p>24 Q. Same question with regard to Lamm,</p> <p>25 did you ever speak to Paradiso about perhaps 15:26:41</p>

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<p>1 Hesse</p> <p>2 Paradiso not rehiring Lamm for the season?</p> <p>3 A. Not specifically, no.</p> <p>4 Q. For the same reason as Nofi?</p> <p>5 A. Yes. We just of went season to 15:26:53</p> <p>6 season with what we had.</p> <p>7 Q. Did Paradiso ever ask you your</p> <p>8 opinion as to -- take a step back.</p> <p>9 With regard to rehiring anyone for</p> <p>10 any particular season did Paradiso ever ask 15:27:05</p> <p>11 you what your opinion was with regard to a</p> <p>12 particular officer?</p> <p>13 A. Not that I recall, no.</p> <p>14 Q. Let's talk about Carter. Was</p> <p>15 Carter the type of officer that you would have 15:27:16</p> <p>16 been comfortable with on your department given</p> <p>17 the changes that you were going to make?</p> <p>18 A. No.</p> <p>19 Q. Why not?</p> <p>20 A. You know, he was kind of hidy 15:27:26</p> <p>21 tidy, talks out of both side of his mouth</p> <p>22 between cops. You know, he just kind of</p> <p>23 rubbed me the wrong way sometimes, and I just,</p> <p>24 you know, the thing with the sleeping on duty,</p> <p>25 bragging about it. I would relieve him in the 15:27:43</p>	<p>1 Hesse</p> <p>2 Q. What were those personal issues?</p> <p>3 A. I think he was sick for a while.</p> <p>4 He had maybe some issues with his kids,</p> <p>5 ex-wives, I don't know if he has one or two. 15:28:59</p> <p>6 Money issues. Everybody has issues in their</p> <p>7 personal lives, you know.</p> <p>8 Q. Let me ask you this. We now -- in</p> <p>9 January at some point in time you were</p> <p>10 actually appointed. At some point in time 15:29:18</p> <p>11 prior to the actual appointment you knew you</p> <p>12 were going to be Acting Chief?</p> <p>13 A. Uh-hum.</p> <p>14 Q. At that point in time when you</p> <p>15 knew that you were going to become Acting 15:29:29</p> <p>16 Chief did you schedule Lamm for any part-time</p> <p>17 shifts?</p> <p>18 A. You know, Lamm was working for the</p> <p>19 Town of Islip Airport security, police,</p> <p>20 whatever, I don't know what they call 15:29:45</p> <p>21 themselves right now, law enforcement. I was</p> <p>22 really unaware of what his plans were, what he</p> <p>23 wanted to do. There was never any</p> <p>24 communication between me and him. I called</p> <p>25 him once for his weapon because I needed to 15:29:59</p>
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<p>1 Hesse</p> <p>2 morning, his hair is standing straight up.</p> <p>3 Yeah, as soon as I got in I went upstairs, I</p> <p>4 went to sleep.</p> <p>5 You know, enough, I just didn't 15:27:52</p> <p>6 want to deal with it any more. I felt moving</p> <p>7 forward he just wasn't a good candidate to</p> <p>8 keep on.</p> <p>9 Q. How about Snyder, was he the type</p> <p>10 of officer that you would have been 15:28:02</p> <p>11 comfortable with in your department given the</p> <p>12 changes that you wanted to make?</p> <p>13 A. You know Snyder was a difficult</p> <p>14 decision for me. Personally I always liked</p> <p>15 Tommy. We always got along, I thought we 15:28:15</p> <p>16 worked pretty well together. But he had -- he</p> <p>17 had some issues. He had some personal issues</p> <p>18 which he rarely ever discussed with me, or</p> <p>19 maybe he discussed it with other members of</p> <p>20 the department, but he seemed towards the end 15:28:30</p> <p>21 to start being angry a lot. Whether it was</p> <p>22 with himself or his other job or members of</p> <p>23 our department. So I thought moving forward</p> <p>24 maybe it was best that he just moved on and</p> <p>25 stayed at his full-time job. 15:28:49</p>	<p>1 Hesse</p> <p>2 issue it to somebody else so he can get</p> <p>3 qualified because I was short weapons. And</p> <p>4 you think he would have said something to me</p> <p>5 then about his other job. 15:30:10</p> <p>6 But he didn't work for us for I</p> <p>7 think it was eight or nine months. So I</p> <p>8 wasn't sure if he was going to plan on coming</p> <p>9 back or what. But then I just decided that</p> <p>10 maybe it was best that he just moved on anyway 15:30:28</p> <p>11 with all the other issues.</p> <p>12 Q. What do you mean he had not worked</p> <p>13 for you for eight or nine months?</p> <p>14 A. I guess he must have said</p> <p>15 something to Ed Paradiso about getting this 15:30:33</p> <p>16 full-time job because there was an academy</p> <p>17 involved, there was training and there was a</p> <p>18 full-time job that he had received.</p> <p>19 Q. Okay.</p> <p>20 A. So he was not scheduled for 15:30:42</p> <p>21 anything for us.</p> <p>22 Q. To your knowledge was he scheduled</p> <p>23 to work at all in August or September of 2005?</p> <p>24 A. I don't recall. I would have to</p> <p>25 look at a schedule from back then. 15:30:51</p>

<p style="text-align: right;">Page 775</p> <p>1 Hesse</p> <p>2 Q. How about Fiorillo, from the time</p> <p>3 that you became aware of the fact that you</p> <p>4 were going to become the Acting Chief did you</p> <p>5 schedule Fiorillo for any part-time shifts? 15:31:05</p> <p>6 A. I think he worked two tours</p> <p>7 because I was strapped for guys, I didn't have</p> <p>8 anybody available to work. But they might</p> <p>9 have been like either Christmas or Christmas</p> <p>10 Eve and New Years or New Year's Eve. But I 15:31:21</p> <p>11 don't think subsequent to that there was any.</p> <p>12 Q. Why didn't you schedule him?</p> <p>13 A. Because I really didn't prefer him</p> <p>14 to be on shift.</p> <p>15 Q. How about Nofi, same question? 15:31:30</p> <p>16 A. He may have worked one tour that</p> <p>17 entire winter. But, you know, I was inclined</p> <p>18 to give the tours to the guys that could work</p> <p>19 alone and seniority.</p> <p>20 Q. What do you mean that could work 15:31:48</p> <p>21 alone?</p> <p>22 A. At that time of year there is one</p> <p>23 cop on per shift.</p> <p>24 Q. What was your concern about Nofi</p> <p>25 working alone? 15:31:55</p>	<p style="text-align: right;">Page 777</p> <p>1 Hesse</p> <p>2 but I may have hired Paul Trosko full-time.</p> <p>3 So he was working full-time. I was working</p> <p>4 full-time. I know Walter Muller was on the</p> <p>5 schedule. I am trying to think who else I 15:33:03</p> <p>6 had.</p> <p>7 You know, Carter could work by</p> <p>8 himself. Tommy Snyder was on by himself on</p> <p>9 the midnights. Specifically, you know, I</p> <p>10 don't recall right now anybody else, I would 15:33:24</p> <p>11 have to really look at a schedule.</p> <p>12 Q. As you can tell from the complaint</p> <p>13 there is a lot of allegations about the</p> <p>14 Bosetti's?</p> <p>15 A. Yes. 15:33:36</p> <p>16 Q. So I feel obligated to ask you</p> <p>17 about them. Describe for me your opinion of</p> <p>18 the Bosetti's -- of Gary Bosetti, let's start</p> <p>19 with him, as a police officer for Ocean Beach,</p> <p>20 independent of whatever he did for the city? 15:33:52</p> <p>21 A. Okay. Police officer for Ocean</p> <p>22 Beach, and I said this for a long time about</p> <p>23 Gary and Richie both, that when they came on</p> <p>24 that they changed, they started to help change</p> <p>25 the persona of the Police Department. Kinder, 15:34:09</p>
<p style="text-align: right;">Page 776</p> <p>1 Hesse</p> <p>2 MR. GOODSTADT: Objection.</p> <p>3 Q. What concerns did you have if any</p> <p>4 with regard to assigning Nofi a shift during</p> <p>5 the winter when he would be working alone? 15:32:03</p> <p>6 A. Well if something happened you got</p> <p>7 to know who to call, where to call, what radio</p> <p>8 to use, what channel. There is a lot of</p> <p>9 variables. So you know I really never thought</p> <p>10 that he was capable of being alone. 15:32:16</p> <p>11 Q. You said you rather give it to</p> <p>12 people with seniority?</p> <p>13 A. Seniority.</p> <p>14 Q. You mean seniority with Ocean</p> <p>15 Beach or seniority in terms of police force 15:32:25</p> <p>16 experience?</p> <p>17 A. Seniority with Ocean Beach.</p> <p>18 Q. So who did you give the majority</p> <p>19 of the shifts to between the time that you</p> <p>20 became or you learned that you were going to 15:32:34</p> <p>21 be Acting Chief and the beginning of the</p> <p>22 season; when I say shifts, I mean part-time</p> <p>23 shifts?</p> <p>24 A. That is funny, I would have to</p> <p>25 look at a schedule. But I was in the process, 15:32:49</p>	<p style="text-align: right;">Page 778</p> <p>1 Hesse</p> <p>2 friendlier, approachable. They were easily</p> <p>3 approachable. Anybody can talk to them about</p> <p>4 any issue that they had, and they would relay</p> <p>5 that information on to either myself or Ed 15:34:23</p> <p>6 Paradiso.</p> <p>7 As far as their work, their</p> <p>8 performance, you know, they were not summons</p> <p>9 writers by any means. They wrote one, two,</p> <p>10 three when they actually had to. But there 15:34:39</p> <p>11 were times where because of them we solved a</p> <p>12 burglary or two or three because people would</p> <p>13 trust them and be able to come up to them and</p> <p>14 give them the information that the Police</p> <p>15 Department needed to make an arrest or, you 15:34:54</p> <p>16 know...</p> <p>17 Q. What is the basis for your opinion</p> <p>18 that the people of Ocean Beach trusted Gary</p> <p>19 and Richie Bosetti?</p> <p>20 A. Everybody would come up to me and 15:35:06</p> <p>21 say they are so nice, they are great officers.</p> <p>22 It is nice to have somebody that we can talk</p> <p>23 to if there is an issue. I mean the community</p> <p>24 just loved them.</p> <p>25 Q. Did people come up and tell you 15:35:18</p>

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<p>1 Hesse</p> <p>2 how much they loved Kevin Lamm?</p> <p>3 A. No.</p> <p>4 Q. Did people come up to you and tell</p> <p>5 you how much they liked or loved Frank 15:35:27</p> <p>6 Fiorillo?</p> <p>7 A. No.</p> <p>8 Q. Joe Nofi?</p> <p>9 A. No.</p> <p>10 Q. Ed Carter? 15:35:33</p> <p>11 A. No.</p> <p>12 Q. Tom Snyder?</p> <p>13 A. No.</p> <p>14 Q. Correct me if I am wrong, none of</p> <p>15 the five plaintiffs here have ever been a 15:35:41</p> <p>16 full-time police officer?</p> <p>17 MR. CONNOLLY: Objection.</p> <p>18 MR. GOODSTADT: Objection.</p> <p>19 Q. Let me ask you. To your knowledge</p> <p>20 was Frank Fiorillo ever a full-time police 15:35:50</p> <p>21 officer for any jurisdiction other than Ocean</p> <p>22 Beach?</p> <p>23 A. No.</p> <p>24 Q. To your knowledge was Joe Nofi</p> <p>25 ever a full-time police officer for any 15:36:00</p>	<p>1 Hesse</p> <p>2 A. They could work one shift a week,</p> <p>3 to 40 hours plus a week.</p> <p>4 Q. So it varied?</p> <p>5 A. It varied. 15:36:42</p> <p>6 Q. Depending on the schedules of the</p> <p>7 particular officers?</p> <p>8 A. Correct.</p> <p>9 Q. Now to your knowledge how many</p> <p>10 years experience did Gary Bosetti have? 15:37:00</p> <p>11 A. At the time he came to Ocean</p> <p>12 Beach?</p> <p>13 Q. Yes.</p> <p>14 A. At least a minimum of 20.</p> <p>15 Q. Mr. Goodstadt asked you a lot of 15:37:08</p> <p>16 questions about them not being certified by</p> <p>17 Suffolk County.</p> <p>18 A. Correct.</p> <p>19 Q. Given their experience with the</p> <p>20 New York City -- let's talk about Gary 15:37:19</p> <p>21 Bosetti. Given Gary Bosetti's experience with</p> <p>22 the New York City Police Department were you</p> <p>23 ever concerned that the public safety was at</p> <p>24 risk because they were not certified by</p> <p>25 Suffolk County? 15:37:30</p>
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<p>1 Hesse</p> <p>2 jurisdiction other than Ocean Beach?</p> <p>3 A. No.</p> <p>4 Q. And same question with regard to</p> <p>5 Snyder? 15:36:08</p> <p>6 A. No.</p> <p>7 Q. Lamm?</p> <p>8 A. No.</p> <p>9 Q. Carter?</p> <p>10 A. No. 15:36:15</p> <p>11 Q. And they were not -- none of the</p> <p>12 plaintiffs were full-time for Ocean Beach</p> <p>13 either; correct?</p> <p>14 A. Correct.</p> <p>15 Q. They were just either part-time 15:36:21</p> <p>16 when it was off season?</p> <p>17 A. Correct.</p> <p>18 Q. Or seasonal?</p> <p>19 A. Yes.</p> <p>20 Q. And how many hours did a typical 15:36:26</p> <p>21 police officer work on a weekly basis during</p> <p>22 the season?</p> <p>23 MR. GOODSTADT: Objection.</p> <p>24 A. During the season?</p> <p>25 Q. Yes. 15:36:36</p>	<p>1 Hesse</p> <p>2 A. No.</p> <p>3 Q. Same question about Richie?</p> <p>4 A. No.</p> <p>5 Q. Same question about -- was Ty 15:37:35</p> <p>6 Bacon certified?</p> <p>7 A. He was. There was a mix up with</p> <p>8 his paperwork.</p> <p>9 Q. Did you have any concern with</p> <p>10 regard to any officer that was not certified 15:37:49</p> <p>11 with regard to the public safety of Ocean</p> <p>12 Beach?</p> <p>13 A. No.</p> <p>14 Q. Let's talk about Ty Bacon. What</p> <p>15 type of police officer was he? 15:37:59</p> <p>16 A. A good man, an honorable man,</p> <p>17 takes a lot of pride in his job. Good with</p> <p>18 the community. Good with the public.</p> <p>19 Q. As between the Bosetti's and the</p> <p>20 five plaintiffs, who had -- who would you say 15:38:14</p> <p>21 was the better police officer?</p> <p>22 MR. GOODSTADT: Objection.</p> <p>23 A. In my opinion the Bosetti brothers</p> <p>24 were better police officers.</p> <p>25 Q. And were the Bosetti's the type of 15:38:27</p>

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<p>1 Hesse</p> <p>2 officers that you wanted to have in your</p> <p>3 kinder and gentler Police Department?</p> <p>4 A. Yes.</p> <p>5 Q. How about Ty Bacon? 15:38:38</p> <p>6 A. Yes.</p> <p>7 Q. Let's go back to the Halloween</p> <p>8 incident, I am just going through my notes</p> <p>9 from this morning to see. Now Mr. Goodstadt</p> <p>10 asked you some questions about your 15:39:00</p> <p>11 communications with Frank Fiorillo, and</p> <p>12 Fiorillo I think you indicated was angry when</p> <p>13 you -- was angry when you gave him the results</p> <p>14 of your investigation?</p> <p>15 A. No. 15:39:13</p> <p>16 Q. Who was that?</p> <p>17 A. Kevin Lamm.</p> <p>18 Q. Kevin Lamm was angry. Now was it</p> <p>19 Kevin Lamm who said are we going to sweep this</p> <p>20 under the rug as well? 15:39:22</p> <p>21 A. Yes.</p> <p>22 Q. Did Lamm ask, advise you as to</p> <p>23 what he meant by as well with regard to</p> <p>24 sweeping something under the rug?</p> <p>25 A. No. 15:39:32</p>	<p>1 Hesse</p> <p>2 A. Yes.</p> <p>3 Q. Now in your opinion, I think Mr.</p> <p>4 Goodstadt asked you this question, if he</p> <p>5 didn't he will object, do you find it strange 15:40:39</p> <p>6 that someone -- even an off duty police</p> <p>7 officer who was involved in a physical</p> <p>8 altercation when he was attacked by no less</p> <p>9 than two individuals and who was dazed and</p> <p>10 hurt, would have left the scene; do you find 15:40:53</p> <p>11 that strange?</p> <p>12 MR. CONNOLLY: Objection.</p> <p>13 MR. GOODSTADT: Objection.</p> <p>14 A. No, I don't find that strange, no.</p> <p>15 Q. Why don't you find that strange? 15:41:00</p> <p>16 A. I think he wanted to go lay down.</p> <p>17 I believe Richie had told me that he advised</p> <p>18 him to go and go lay down.</p> <p>19 Q. So if I understand you correctly,</p> <p>20 at least according to Richie, Richie told you 15:41:13</p> <p>21 that he told his brother to leave and go lay</p> <p>22 down?</p> <p>23 A. Correct.</p> <p>24 Q. Now, Mr. Goodstadt asked you some</p> <p>25 questions about whether or not you disciplined 15:41:46</p>
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<p>1 Hesse</p> <p>2 Q. Are you aware of anything that you</p> <p>3 swept under the rug?</p> <p>4 A. No.</p> <p>5 MR. GOODSTADT: Objection. 15:39:36</p> <p>6 Q. To your knowledge did Lamm go to</p> <p>7 Chief Paradiso with his concerns that I guess</p> <p>8 the Halloween incident was being swept under</p> <p>9 the rug?</p> <p>10 A. I don't know. 15:39:51</p> <p>11 Q. Did Chief Paradiso ever advise you</p> <p>12 that he thought it was being swept under the</p> <p>13 rug?</p> <p>14 A. No. Never.</p> <p>15 Q. When did Lamm start working for 15:40:02</p> <p>16 Ocean Beach?</p> <p>17 A. Late 90s.</p> <p>18 Q. Now, Mr. Goodstadt asked you some</p> <p>19 questions about Gary Bosetti leaving the scene</p> <p>20 of Hauser's Bar at some point in time after 15:40:18</p> <p>21 the altercation. Do you recall those</p> <p>22 questions</p> <p>23 A. Yes.</p> <p>24 Q. And I believe you said that Richie</p> <p>25 Bosetti told you that his brother was dazed? 15:40:32</p>	<p>1 Hesse</p> <p>2 Gary Bosetti for leaving the scene or doing</p> <p>3 anything as it related to the Halloween</p> <p>4 incident when he was off duty, do you recall</p> <p>5 that? 15:42:03</p> <p>6 A. Yes.</p> <p>7 Q. Could you have disciplined Gary</p> <p>8 Bosetti for something that he did while he was</p> <p>9 off duty?</p> <p>10 A. Yes. 15:42:09</p> <p>11 Q. Is there a policy at Ocean Beach</p> <p>12 that talks about disciplining off duty police</p> <p>13 officers?</p> <p>14 MR. GOODSTADT: Objection.</p> <p>15 A. At that time? 15:42:18</p> <p>16 Q. Yes.</p> <p>17 A. I don't believe we had any</p> <p>18 policies.</p> <p>19 Q. Now Mr. Goodstadt asked you a</p> <p>20 number of questions about your opinion of the 15:42:32</p> <p>21 Lamm, Snyder, Fiorillo accounts of what went</p> <p>22 on, do you recall that?</p> <p>23 A. Yes.</p> <p>24 Q. And those accounts were based upon</p> <p>25 solely the accounts of the alleged victims; am 15:42:45</p>

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<p>1 Hesse</p> <p>2 I correct?</p> <p>3 A. Correct.</p> <p>4 MR. GOODSTADT: Objection.</p> <p>5 Q. And you said you believed that the 15:42:54</p> <p>6 victims, the alleged victims' statements to</p> <p>7 the three officers that night were lies, do</p> <p>8 you recall that?</p> <p>9 A. Yes.</p> <p>10 Q. Did you initially believe that 15:43:02</p> <p>11 they were lies when you first read them?</p> <p>12 A. No.</p> <p>13 Q. At what point in time did you come</p> <p>14 to the conclusion that what Van Koot, Schalik</p> <p>15 and I think Tesori stated to Lamm, Snyder 15:43:13</p> <p>16 and/or Fiorillo that evening were lies?</p> <p>17 A. When I spoke to Budd Jaeger and</p> <p>18 Jean Jaeger.</p> <p>19 Q. And why did what Jean and/or Budd</p> <p>20 Jaeger say to you cause you to now believe 15:43:26</p> <p>21 that what Schalik, Tesori and Van Koot said</p> <p>22 were lies?</p> <p>23 A. Put a whole different perspective</p> <p>24 on what we believed happened.</p> <p>25 Q. What was the different 15:43:39</p>	<p>1 Hesse</p> <p>2 Q. Other than Mr. Snyder?</p> <p>3 A. Yes.</p> <p>4 Q. Did you notify the village at any</p> <p>5 point in time after April 2nd as to those 15:45:08</p> <p>6 officers that were going to be hired for the</p> <p>7 2006 season, or did they just show up when the</p> <p>8 season started and say here I am?</p> <p>9 A. There was no notification made</p> <p>10 that they were going to be rehired. They 15:45:23</p> <p>11 basically got scheduled and started to work.</p> <p>12 Q. How did the village know to pay</p> <p>13 them?</p> <p>14 A. I believe that twice, there is two</p> <p>15 times a year that Civil Service sends out a 15:45:32</p> <p>16 form that needs to be filled out by the</p> <p>17 village that states which officers will be</p> <p>18 working, and it gets verified by me, sent back</p> <p>19 to the village office and sent on.</p> <p>20 Q. So at some point in time there is 15:45:45</p> <p>21 a communication between you and the Village</p> <p>22 Clerk's office as to which officers were being</p> <p>23 hired for the 2006 season?</p> <p>24 A. Yes.</p> <p>25 Q. Did Mayor Rogers ever advise you 15:45:57</p>
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<p>1 Hesse</p> <p>2 perspective?</p> <p>3 A. Instead of Gary Bosetti just going</p> <p>4 berserk in a bar in a drunken rage hitting</p> <p>5 people in the bar with a pool stick, there 15:43:49</p> <p>6 were other elements leading up to Mr. Gary</p> <p>7 Bosetti defending himself and a third person</p> <p>8 with the pool stick.</p> <p>9 Q. Was your opinion that the initial</p> <p>10 three statements -- was it your opinion that 15:44:03</p> <p>11 the accounts given by Tesori, Schalik and Van</p> <p>12 Koot were lies, was that reinforced when you</p> <p>13 received subsequent statements from other</p> <p>14 witnesses?</p> <p>15 A. Yes. 15:44:20</p> <p>16 Q. I know I'm flipping back, so I</p> <p>17 apologize. Let's go back to the April 2006</p> <p>18 time period. You had various police officers,</p> <p>19 you asked them to come to the beach?</p> <p>20 A. Yes. 15:44:52</p> <p>21 Q. You advised four of the plaintiffs</p> <p>22 that they were not going to be rehired. The</p> <p>23 rest presumably if I am correct were going to</p> <p>24 be rehired; right?</p> <p>25 A. Yes. 15:45:00</p>	<p>1 Hesse</p> <p>2 that she needed to approve which officers for</p> <p>3 the 2006 season were going to be rehired?</p> <p>4 A. No.</p> <p>5 Q. Did Trustee Loeffler ever advise 15:46:06</p> <p>6 you that he needed to approve of who you</p> <p>7 rehired for the 2006 season?</p> <p>8 A. No.</p> <p>9 Q. Were you aware that you needed to</p> <p>10 run the names by either Mayor Rogers or 15:46:18</p> <p>11 Loeffler?</p> <p>12 A. I was never told that I had to do</p> <p>13 that.</p> <p>14 Q. Or any trustee?</p> <p>15 A. No. 15:46:24</p> <p>16 Q. To your knowledge did Paradiso</p> <p>17 when he made the decision have to run the</p> <p>18 names of the people that were being hired for</p> <p>19 the particular season by either the mayor or</p> <p>20 the trustees? 15:46:36</p> <p>21 A. I was unaware.</p> <p>22 Q. Did Mayor Rogers ever advise you</p> <p>23 that you acted improperly by not clearing the</p> <p>24 seasonal police officer staff with her first?</p> <p>25 A. No. 15:46:49</p>

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<p>1 Hesse</p> <p>2 Q. How about any trustee?</p> <p>3 A. No.</p> <p>4 Q. Now, you discussed with Mr.</p> <p>5 Goodstadt on the first day of your testimony 15:47:58</p> <p>6 with regard to certain comments that Mayor</p> <p>7 Rogers said with regard to Mr. Paradiso. Do</p> <p>8 you recall being asked certain of those</p> <p>9 questions?</p> <p>10 A. Vaguely. 15:48:11</p> <p>11 Q. Do you recall being advised that</p> <p>12 Ms. Rogers believed that there was some</p> <p>13 liabilities with regard to Chief Paradiso?</p> <p>14 A. Vaguely.</p> <p>15 Q. What did you mean by liabilities; 15:48:21</p> <p>16 you would have to know what the question was?</p> <p>17 A. Yes, I would need to hear it.</p> <p>18 Q. Okay.</p> <p>19 Well let me be more specific. I</p> <p>20 believe you testified and correct me if I am 15:48:34</p> <p>21 wrong that Mayor Rogers expressed some</p> <p>22 disappointment with the chief when you spoke</p> <p>23 to her concerning the notice of claim?</p> <p>24 MR. GOODSTADT: Objection.</p> <p>25 Q. Did you ever speak to Mayor Rogers 15:48:45</p>	<p>1 Hesse</p> <p>2 issued a 10-1 and no one came to assist him?</p> <p>3 A. No.</p> <p>4 Q. Did you ever hear a rumor prior to</p> <p>5 seeing this lawsuit that Joe Nofi had issued a 15:50:07</p> <p>6 10-1 and no one came to help him?</p> <p>7 A. No.</p> <p>8 Q. Did you ever receive a</p> <p>9 communication, I am not even talking about a</p> <p>10 complaint now, did you ever receive a 15:50:25</p> <p>11 communication from any police officer that</p> <p>12 another police officer didn't know a radio</p> <p>13 code?</p> <p>14 MR. GOODSTADT: Objection.</p> <p>15 A. No. 15:50:38</p> <p>16 Q. Did you ever receive a</p> <p>17 communication from any resident of Ocean Beach</p> <p>18 that the police didn't respond to something</p> <p>19 involving that particular resident because a</p> <p>20 particular officer did not know the right 15:50:54</p> <p>21 radio code?</p> <p>22 MR. GOODSTADT: Objection.</p> <p>23 A. No.</p> <p>24 Q. Let me ask you something. Was it</p> <p>25 appropriate for a police officer at Ocean 15:51:07</p>
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<p>1 Hesse</p> <p>2 about the notice of claim?</p> <p>3 A. Yes.</p> <p>4 Q. And in that conversation did you</p> <p>5 have -- did you discuss Chief Paradiso? 15:48:53</p> <p>6 A. Yes.</p> <p>7 Q. What did Mayor Rogers say to you</p> <p>8 concerning Chief Paradiso at that time?</p> <p>9 A. I just remember her being unhappy</p> <p>10 with the way he ran things. 15:49:04</p> <p>11 Q. Do you recall specifically what</p> <p>12 Mayor Rogers said?</p> <p>13 A. Off the top of my head right now,</p> <p>14 no.</p> <p>15 Q. Radio codes, again Mr. Goodstadt 15:49:12</p> <p>16 asked you and you rolled your eyes, Mr.</p> <p>17 Goodstadt asked you some questions about radio</p> <p>18 codes?</p> <p>19 A. Yes.</p> <p>20 Q. Did Mr. Nofi ever advise you that 15:49:42</p> <p>21 he had issued a 10-1 and that any police</p> <p>22 officer failed to respond to the 10-1?</p> <p>23 A. He never complained, no.</p> <p>24 Q. Did he ever say anything to you,</p> <p>25 even if it was not a complaint, that he had 15:49:58</p>	<p>1 Hesse</p> <p>2 Beach while in uniform to go into a private</p> <p>3 residence, sit down and drink a beer?</p> <p>4 A. Would it be inappropriate?</p> <p>5 Q. Yes. 15:51:22</p> <p>6 A. In my opinion yes.</p> <p>7 Q. While they were on duty in</p> <p>8 uniform?</p> <p>9 A. Absolutely, yes.</p> <p>10 Q. How about if they went into a 15:51:28</p> <p>11 resident's house, had a woman sit on his lap,</p> <p>12 drink a beer and have a picture taken?</p> <p>13 A. It is inappropriate.</p> <p>14 MR. GOODSTADT: I think we are --</p> <p>15 you have no foundation that they even 15:51:49</p> <p>16 drank a beer. No foundation.</p> <p>17 MR. NOVIKOFF: Okay. You could</p> <p>18 have objected to form.</p> <p>19 MR. GOODSTADT: You are asking</p> <p>20 hypotheticals. 15:51:59</p> <p>21 MR. NOVIKOFF: That is true.</p> <p>22 MR. GOODSTADT: If you mentioned</p> <p>23 one of my clients then maybe I would have</p> <p>24 said objection. But you are speaking</p> <p>25 hypothetically. 15:52:07</p>

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<p>1 Hesse</p> <p>2 MR. NOVIKOFF: Well it is what it</p> <p>3 is.</p> <p>4 Q. In response to I think Mr.</p> <p>5 Goodstadt's question again on the radio codes, 15:52:22</p> <p>6 I think you said that the officers always</p> <p>7 spoke the codes as well as plain talk, do you</p> <p>8 recall that?</p> <p>9 A. Yes.</p> <p>10 Q. What does plain talk mean? 15:52:33</p> <p>11 A. Basically what we are doing now.</p> <p>12 Just talking to each other. Just give him the</p> <p>13 type of call it was, you know, for what it</p> <p>14 was.</p> <p>15 Q. Give me an example? 15:52:42</p> <p>16 A. Like we get a complaint of noise</p> <p>17 somewhere. So the dispatcher would pick up</p> <p>18 the radio, he would assign it to an officer.</p> <p>19 The officer would respond and he would say, we</p> <p>20 have a 10-17, noise complaint at 668 Ocean 15:52:53</p> <p>21 Breeze.</p> <p>22 Q. Okay. Flipping back a little bit,</p> <p>23 sorry, I don't think I asked you this</p> <p>24 question.</p> <p>25 Did Lamm or any other officer ever 15:53:04</p>	<p>1 Hesse</p> <p>2 Q. How was it exaggerated?</p> <p>3 A. I need you to read it to me so I</p> <p>4 can --</p> <p>5 Q. Let me go find it. You know what, 15:54:15</p> <p>6 let me mark the following complaint because I</p> <p>7 just want to make sure that we covered the</p> <p>8 allegations. I apologize, I tried to do it a</p> <p>9 little expeditiously and I don't want to mess</p> <p>10 it up. 15:54:59</p> <p>11 MR. CONNOLLY: While this is being</p> <p>12 marked let's go off the record.</p> <p>13 THE VIDEOGRAPHER: The time is</p> <p>14 3:56, we are off the record.</p> <p>15 (Recess taken.) 15:55:08</p> <p>16 THE VIDEOGRAPHER: The time is</p> <p>17 4:05, we are on the record.</p> <p>18 MR. NOVIKOFF: We are going to</p> <p>19 stop the deposition today after all</p> <p>20 counsel have had a discussion off the 16:03:28</p> <p>21 record. We are going to continue with</p> <p>22 the deposition of Mr. Hesse and hopefully</p> <p>23 complete it on August 17th.</p> <p>24 We are confirmed for Mr. Carollo</p> <p>25 at this office here at 2 o'clock next 16:03:43</p>
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<p>1 Hesse</p> <p>2 advise you that people dumped beer near them</p> <p>3 when they were walking on the beach?</p> <p>4 A. We had an incident.</p> <p>5 Q. What is that incident? 15:53:18</p> <p>6 A. We had an incident that Kevin Lamm</p> <p>7 and Tommy Snyder were standing on a foot post</p> <p>8 and Ocean Breeze and Bay Walk, and some punk</p> <p>9 took a beer, poured it down the ledge of the</p> <p>10 building and it dripped on to Tom Snyder. 15:53:35</p> <p>11 Q. Now there is an allegation in the</p> <p>12 complaint about beer being thrown from a</p> <p>13 second or third floor story near Mr. Lamm. Do</p> <p>14 you recall seeing that?</p> <p>15 A. The complaint? 15:53:50</p> <p>16 Q. Yes.</p> <p>17 A. Yes.</p> <p>18 Q. To your understanding is that the</p> <p>19 incident that you are discussing?</p> <p>20 A. That is the only one that I know 15:53:57</p> <p>21 of.</p> <p>22 Q. Was the allegations in the</p> <p>23 complaint about that incident accurate?</p> <p>24 MR. GOODSTADT: Objection.</p> <p>25 A. It was exaggerated. 15:54:06</p>	<p>1 Tuesday, and counsel will discuss the</p> <p>2 briefing schedule either tomorrow or</p> <p>3 early next week.</p> <p>4 MR. GOODSTADT: No objection. 16:03:53</p> <p>5 MR. CONNOLLY: With the request</p> <p>6 being that if he pushed back one week</p> <p>7 subject to court consent.</p> <p>8 MR. NOVIKOFF: Okay.</p> <p>9 THE VIDEOGRAPHER: The time is 16:04:03</p> <p>10 4:05. We are off the record.</p> <p>11 (Time noted: 4:05 p.m.)</p> <p>12</p> <p>13 _____</p> <p>14 GEORGE HESSE</p> <p>15</p> <p>16 Subscribed and sworn to before me</p> <p>17 this ____ day of _____, 2009</p> <p>18</p> <p>19 _____</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>

<p style="text-align: right;">Page 799</p> <p>1 2 C E R T I F I C A T E 3 STATE OF NEW YORK) 4 : ss. 5 COUNTY OF NEW YORK) 6 7 I, Philip Rizzuti, a Notary 8 Public within and for the State of New 9 York, do hereby certify: 10 That GEORGE HESSE, the witness 11 whose deposition is hereinbefore set forth, 12 was duly sworn by me and that such 13 deposition is a true record of the 14 testimony given by the witness. 15 I further certify that I am not 16 related to any of the parties to this 17 action by blood or marriage, and that I am 18 in no way interested in the outcome of this 19 matter. 20 IN WITNESS WHEREOF, I have 21 hereunto set my hand this 18th day of 22 August, 2009. 23 24 _____ 25 PHILIP RIZZUTI</p>	<p style="text-align: right;">Page 801</p> <p>1 2 Hesse Exhibit 22, internal 569 3 correspondence, December 10, 4 2004, 5 Hesse Exhibit 23, typewritten 577 6 document dated 11/5/04 to George 7 Hesse, 8 Hesse Exhibit 24, internal 588 9 correspondence, November 7, 10 2004, 11 Hesse Exhibit 25, Ocean Beach 599 12 Police Department, document 13 dated 11/5/2004, 14 Hesse Exhibit 26, incident 604 15 report, 12/11/2004, 16 Hesse Exhibit 27, letter dated 612 17 March 11, 2006, 18 Hesse Exhibit 28, Employment, 664 19 Collier County Sheriff's Office, 20 Employment Reference Prior 21 Experience, 22 23 24 25</p>
<p style="text-align: right;">Page 800</p> <p>1 2 ----- I N D E X ----- 3 WITNESS EXAMINATION BY PAGE 4 GEORGE HESSE Mr. Goodstadt 491 5 Mr. Novikoff 679 6 7 ----- INFORMATION REQUESTS ----- 8 DIRECTIONS: None 9 RULINGS: None 10 TO BE FURNISHED: None 11 REQUESTS: 619, 638 12 MOTIONS: None 13 14 ----- EXHIBITS ----- 15 Hesse Exhibit 17, photocopy of 524 16 photographs, 17 Hesse Exhibit 18, incident 529 18 report, 19 Hesse Exhibit 19, handwritten 543 20 statement, November 1, 2004, 21 Hesse Exhibit 20, handwritten 554 22 statement, November 2, 2004, 23 Hesse Exhibit 21, internal 562 24 correspondence, November 12, 25 2004,</p>	<p style="text-align: right;">Page 802</p> <p>1 2 *** ERRATA SHEET *** 3 NAME OF CASE: CARTER VS. OCEAN BEACH 4 DATE OF DEPOSITION: August 6, 2009 5 NAME OF WITNESS: GEORGE HESSE 6 PAGE LINE FROM TO 7 _____ 8 _____ 9 _____ 10 _____ 11 _____ 12 _____ 13 _____ 14 _____ 15 _____ 16 _____ 17 _____ 18 _____ 19 20 21 _____ 22 GEORGE HESSE 23 Subscribed and sworn to before me 24 this ____ day of _____, 2009. 25 (Notary Public) My Commission Expires:</p>

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<p>1</p> <p>2</p> <p>3</p> <p>4</p> <p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> <p>UNITED STATES DISTRICT COURT EASTERN DISTRICT OF NEW YORK</p> <p>EDWARD CARTER, FRANK FIORILLO,) KEVIN LAMM, JOSEPH NOFI and) THOMAS SNYDER,) Plaintiffs,) vs.) CV 07 1215) INCORPORATED VILLAGE OF OCEAN) BEACH; MAYOR JOSEPH C. LOEFFLER) JR., individually and in his) Official capacity; former Mayor) NATALIE K. ROGERS, individually) and in her official capacity,) OCEAN BEACH POLICE DEPARTMENT;) ACTING DEPUTY POLICE CHIEF) GEORGE B. HESSE, individually) And in his official capacity;) SUFFOLK COUNTY; SUFFOLK COUNTY) POLICE DEPARTMENT, SUFFOLK) COUNTY DEPARTMENT OF CIVIL) SERVICE; and ALLISON SANCHEZ,) Individually and in her) Official capacity,) Defendants.) -----)</p> <p>CONTINUED VIDEOTAPED DEPOSITION OF GEORGE HESSE Uniondale, New York Monday, August 17, 2009</p> <p>Reported by: Philip Rizzuti JOB NO. 24185</p>	<p>1</p> <p>2 APPEARANCES:</p> <p>3</p> <p>4 THOMPSON WIGDOR & GILLY, LLP</p> <p>5 Attorneys for Plaintiffs</p> <p>6 85 Fifth Avenue</p> <p>7 New York, New York 10003</p> <p>8 BY: ANDREW S. GOODSTADT, ESQ.</p> <p>9</p> <p>10 MARKS, O'NEILL, O'BRIEN & COURTNEY, P.C.</p> <p>11 Attorneys for George B. Hesse</p> <p>12 530 Saw Mill Road</p> <p>13 Elmsford, New York 10523</p> <p>14 BY: KEVIN W. CONNOLLY, ESQ.</p> <p>15</p> <p>16 RIVKIN RADLER, LLP</p> <p>17 Attorneys for Incorporated Village of</p> <p>18 Ocean Beach, Joseph Loeffler, Natalie</p> <p>19 Rogers and Ocean Beach Police Department</p> <p>20 926 RexCorp Plaza</p> <p>21 Uniondale, New York 11556-0926</p> <p>22 BY: KENNETH A. NOVIKOFF, ESQ.</p> <p>23</p> <p>24</p> <p>25</p>
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<p>1</p> <p>2</p> <p>3</p> <p>4</p> <p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> <p>August 17, 2009 10:22 a.m.</p> <p>Continued videotaped deposition of GEORGE HESSE, held at the offices of Rivkin Radler, 926 Rexcorp Plaza, Uniondale, New York, pursuant to subpoena, before Philip Rizzuti, a Notary Public of the State of New York</p>	<p>1</p> <p>2 APPEARANCES:</p> <p>3</p> <p>4 RUDOLPH M. BAPTISTE, ESQ.</p> <p>5 Assistant County Attorney</p> <p>6 Suffolk County, State of New York</p> <p>7 100 Veterans Memorial Highway</p> <p>8 P.O. Box 6100</p> <p>9 Hauppauge, New York 11788-4311</p> <p>10</p> <p>11 ALSO PRESENT:</p> <p>12 JORDAN MUMMERT, Videographer</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>

<p style="text-align: right;">Page 807</p> <p>1 Hesse</p> <p>2 MR. NOVIKOFF: Would you mark as</p> <p>3 Hesse Exhibit 29, complaint.</p> <p>4 (Hesse Exhibit 29, complaint,</p> <p>5 marked for identification, as of this 10:08:44</p> <p>6 date.)</p> <p>7 THE VIDEOGRAPHER: This is the</p> <p>8 start of the tape labelled number 1 of</p> <p>9 the continuation of George Hesse in the</p> <p>10 matter of Carter and Fiorillo versus 10:21:20</p> <p>11 Incorporated Village of Ocean Beach. The</p> <p>12 date is August 17th. The time is 10:22</p> <p>13 a.m., we are on the record.</p> <p>14 G E O R G E H E S S E, called as a</p> <p>15 witness, having been duly sworn by a 10:21:33</p> <p>16 Notary Public, was examined and</p> <p>17 testified as follows:</p> <p>18 EXAMINATION BY</p> <p>19 MR. NOVIKOFF:</p> <p>20 Q. Good morning Mr. Hesse. 10:21:35</p> <p>21 A. Good morning.</p> <p>22 Q. How are you, welcome back for your</p> <p>23 fourth day. Hopefully we will be out of here</p> <p>24 by noon. Where I left off with you was we</p> <p>25 were going to start going through some of the 10:21:42</p>	<p style="text-align: right;">Page 809</p> <p>1 Hesse</p> <p>2 Q. How about outside of Ocean Beach?</p> <p>3 A. No.</p> <p>4 Q. Paragraph 33 plaintiffs allege in</p> <p>5 part that you encouraged and enabled on-duty 10:23:18</p> <p>6 officers to drink alcohol in the police</p> <p>7 station.</p> <p>8 Sir, did you ever encourage or</p> <p>9 enable any on-duty officers to drink alcohol</p> <p>10 in the police station? 10:23:31</p> <p>11 A. No.</p> <p>12 Q. Plaintiffs allege that you would</p> <p>13 collect money to have these on-duty police</p> <p>14 officers have Rocket Fuel in the police</p> <p>15 station. 10:23:45</p> <p>16 Sir, did you ever collect money so</p> <p>17 that on-duty police officers could drink</p> <p>18 Rocket Fuel in the police station?</p> <p>19 A. No.</p> <p>20 Q. Let's look at paragraph 35. 10:23:55</p> <p>21 Plaintiffs allege in part that you hired</p> <p>22 civilians as police dispatchers.</p> <p>23 Did you, Mr. Hesse, hire civilians</p> <p>24 to be civil dispatchers?</p> <p>25 A. I didn't hire anybody at that 10:24:17</p>
<p style="text-align: right;">Page 808</p> <p>1 Hesse</p> <p>2 allegations in the complaint.</p> <p>3 In front of you is what has been</p> <p>4 pre-marked as Exhibit 29. I have left a copy</p> <p>5 of Deposition Exhibit 29 for all counsel. I 10:21:51</p> <p>6 would ask you to turn your attention to page</p> <p>7 9, paragraph 32. In paragraph 32 plaintiffs</p> <p>8 allege in part that you allowed your allies on</p> <p>9 the force to spend their shifts drinking at</p> <p>10 local bars while in uniform and officially on 10:22:28</p> <p>11 duty.</p> <p>12 Did you ever allow any officers to</p> <p>13 drink in local bars while in uniform and</p> <p>14 officially on duty?</p> <p>15 A. No. 10:22:39</p> <p>16 Q. Plaintiffs then go on to allege in</p> <p>17 paragraph 32 that you instructed other</p> <p>18 officers under your command including the</p> <p>19 plaintiffs to neglect their own duties in</p> <p>20 order to chauffeur their intoxicated 10:22:56</p> <p>21 colleagues both inside and out of Ocean Beach.</p> <p>22 Did you ever order the plaintiffs</p> <p>23 to chauffeur intoxicated police officers</p> <p>24 around Ocean Beach?</p> <p>25 A. No. 10:23:10</p>	<p style="text-align: right;">Page 810</p> <p>1 Hesse</p> <p>2 time, no.</p> <p>3 Q. Paragraph 36. Plaintiffs allege</p> <p>4 that each one of them advised you on numerous</p> <p>5 occasions that the department and the village 10:24:30</p> <p>6 were left dangerously short of personnel while</p> <p>7 plaintiffs were assigned to chauffeur</p> <p>8 intoxicated officers and their civilian</p> <p>9 friends.</p> <p>10 Let me ask you this question, 10:24:42</p> <p>11 putting aside the fact as to whether or not</p> <p>12 you ordered anyone to chauffeur anyone, I</p> <p>13 think you have spoken about that, did any of</p> <p>14 the plaintiffs ever complain to you about the</p> <p>15 subject of they having to chauffeur anyone 10:24:55</p> <p>16 within or without of Ocean Beach?</p> <p>17 A. No.</p> <p>18 Q. Did they ever complain to you that</p> <p>19 anything you did left the village dangerously</p> <p>20 short of police personnel? 10:25:13</p> <p>21 A. Never.</p> <p>22 Q. Did they ever complain to you that</p> <p>23 they personally witnessed on-duty police</p> <p>24 officers drinking while in uniform in an Ocean</p> <p>25 Beach bar? 10:25:34</p>

2 (Pages 807 to 810)

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<p>1 Hesse</p> <p>2 A. Never.</p> <p>3 Q. Let's look at the next page,</p> <p>4 paragraph 39. Plaintiffs allege in part that</p> <p>5 you allowed uncertified officers to assign 10:25:49</p> <p>6 dock masters to cover their shifts at the</p> <p>7 Ocean Beach Police Department.</p> <p>8 Did you ever allow uncertified</p> <p>9 officers to assign dock masters to cover</p> <p>10 shifts at the Ocean Beach Police Department? 10:26:07</p> <p>11 A. Never.</p> <p>12 Q. Did you ever allow any officer to</p> <p>13 assign a dock master to cover shifts at the</p> <p>14 Ocean Beach Police Department?</p> <p>15 A. No. 10:26:19</p> <p>16 Q. Paragraph 40. Plaintiffs allege</p> <p>17 in part that you allowed uncertified officers</p> <p>18 to drink beer while patrolling in police</p> <p>19 vehicles.</p> <p>20 Assuming that it really doesn't 10:26:33</p> <p>21 matter whether someone is uncertified or</p> <p>22 certified with regard to drinking in police</p> <p>23 vehicles, let me ask you this question. Did</p> <p>24 you ever allow any officers to drink beer</p> <p>25 while patrolling in police vehicles? 10:26:44</p>	<p>1 Hesse</p> <p>2 to remove empty beer cans and other garbage</p> <p>3 left by any other officer in the police</p> <p>4 station?</p> <p>5 A. No. 10:28:08</p> <p>6 Q. Did they ever complain to you that</p> <p>7 they felt that they were required by you to</p> <p>8 pick up beer cans and garbage left by other</p> <p>9 officers in the police station?</p> <p>10 A. Never. 10:28:17</p> <p>11 Q. Let's go to paragraph 43. Did</p> <p>12 Officer Snyder -- well, in 43 Officer Snyder's</p> <p>13 complaint is alleging that on one or more</p> <p>14 occasions other officers took away his police</p> <p>15 radio phone. 10:28:39</p> <p>16 Did Snyder ever complain to you</p> <p>17 that any other officer would take away his</p> <p>18 emergency cell phone from him?</p> <p>19 MR. GOODSTADT: Objection.</p> <p>20 A. No. 10:28:50</p> <p>21 Q. Did Snyder ever complain to you</p> <p>22 that he felt that other officers were</p> <p>23 mistreating him?</p> <p>24 A. No.</p> <p>25 MR. GOODSTADT: Just note my 10:29:04</p>
Page 812	Page 814
<p>1 Hesse</p> <p>2 A. Never.</p> <p>3 Q. Did any of the plaintiffs ever</p> <p>4 advise you that they were aware that any</p> <p>5 officer was drinking a beer in a police 10:26:51</p> <p>6 vehicle while on duty?</p> <p>7 A. Never.</p> <p>8 Q. Would you tell officers what types</p> <p>9 of beer to confiscate?</p> <p>10 A. No. 10:27:06</p> <p>11 Q. Did the plaintiffs ever complain</p> <p>12 to you about you -- about the subject of you</p> <p>13 confiscating beer improperly?</p> <p>14 A. No.</p> <p>15 Q. Did the plaintiffs ever complain 10:27:24</p> <p>16 to you about any officers drinking the</p> <p>17 confiscated beer?</p> <p>18 A. Never.</p> <p>19 Q. Paragraph 41. Plaintiffs allege</p> <p>20 that you instructed them to remove empty beer 10:27:43</p> <p>21 cans and other refuse that uncertified</p> <p>22 officers abandoned in their vehicles and left</p> <p>23 strewn about the police station after a night</p> <p>24 on duty.</p> <p>25 Did you ever instruct plaintiffs 10:27:58</p>	<p>1 Hesse</p> <p>2 objection to that as well.</p> <p>3 MR. NOVIKOFF: That question?</p> <p>4 MR. GOODSTADT: Yes.</p> <p>5 MR. NOVIKOFF: Okay. 10:29:09</p> <p>6 Q. Let's look at paragraph 43. Tell</p> <p>7 me when you are done reading it to yourself?</p> <p>8 A. Okay.</p> <p>9 Q. Did Officer Snyder ever complain</p> <p>10 to you about anything that is referenced 10:29:56</p> <p>11 within paragraph 43?</p> <p>12 A. No.</p> <p>13 Q. Read paragraphs 44 and 45 to</p> <p>14 yourself please and then tell me when you are</p> <p>15 done? 10:30:07</p> <p>16 A. Okay.</p> <p>17 Q. In now in paragraph 45 Mr.</p> <p>18 Fiorillo is alleging that you chided him in</p> <p>19 the presence of Lamm and Nofi with regard to</p> <p>20 his involvement in an altercation involving an 10:31:04</p> <p>21 intoxicated off-duty police officer.</p> <p>22 Did you ever chide Mr. Fiorillo</p> <p>23 with regard to his involvement in an incident,</p> <p>24 a physical altercation involving an off-duty</p> <p>25 police officer? 10:31:23</p>

3 (Pages 811 to 814)

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<p>1 Hesse</p> <p>2 MR. GOODSTADT: Objection.</p> <p>3 Q. As referenced in 44 and 45?</p> <p>4 A. As reference to this, no.</p> <p>5 Q. Do you recall what Mr. -- do you 10:31:27</p> <p>6 have idea -- do you have an understanding as</p> <p>7 to what Mr. Fiorillo is referencing in</p> <p>8 paragraph 44 and 45?</p> <p>9 A. Yes.</p> <p>10 Q. Could you please tell me what he 10:31:35</p> <p>11 is referencing?</p> <p>12 A. He is referencing an incident that</p> <p>13 happened on the South Bay Water Taxi's. We</p> <p>14 got a call of a fight on the water taxi. The</p> <p>15 fight was between a Dr. Something Guida from 10:31:50</p> <p>16 the Good Samaritan Hospital, he was punching</p> <p>17 his girlfriend in the face, it was not Police</p> <p>18 Officer Walter Muller who he is talking about</p> <p>19 here.</p> <p>20 Walter Muller identified himself 10:32:07</p> <p>21 as a police officer, he was there with his</p> <p>22 wife, they were out to dinner that night. He</p> <p>23 was not intoxicated. He had taken police</p> <p>24 action. One of our civilian dock masters had</p> <p>25 jumped on the boat and because of Officer 10:32:19</p>	<p>1 Hesse</p> <p>2 Q. Did you ever question Fiorillo as</p> <p>3 to why he did this?</p> <p>4 A. Yes.</p> <p>5 Q. And what did you ask him? 10:33:27</p> <p>6 A. He said he didn't recognize him.</p> <p>7 Q. But what did you ask him; before</p> <p>8 you tell me what Fiorillo said what</p> <p>9 specifically did you ask him if you can</p> <p>10 recall? 10:33:37</p> <p>11 A. I don't remember a specific</p> <p>12 question that I asked. But I made a statement</p> <p>13 that you better know your officers before you</p> <p>14 take action like that.</p> <p>15 Q. Is it usual for one officer to put 10:33:47</p> <p>16 another officer in a head lock?</p> <p>17 A. Of course not, and the other thing</p> <p>18 is Lamm and Nofi were not even on that night</p> <p>19 that I believe. I don't remember them being</p> <p>20 there. 10:33:57</p> <p>21 Q. Now where would there be a record</p> <p>22 of what nights, what shifts Lamm and Nofi</p> <p>23 worked in June of 2002?</p> <p>24 A. I am sure that the village has</p> <p>25 provided all the schedules. 10:34:09</p>
Page 816	Page 818
<p>1 Hesse</p> <p>2 Fiorillo's actions that civilian also -- the</p> <p>3 dock master had gotten hurt.</p> <p>4 So when the incident was over we</p> <p>5 arrested Dr. Guido for harassment on that 10:32:30</p> <p>6 civilian dock master because the confrontation</p> <p>7 that they had between them. What happened</p> <p>8 later was as a group I yelled at everybody,</p> <p>9 especially the civilian dock master for</p> <p>10 getting involved in police action. 10:32:48</p> <p>11 Q. Who was the civilian dock master?</p> <p>12 A. Kenny Lappena.</p> <p>13 Q. And when you said because of Mr.</p> <p>14 Fiorillo's actions the dock master got hurt,</p> <p>15 what was Mr. Fiorillo's actions that you are 10:32:57</p> <p>16 referring to?</p> <p>17 A. What happened was because he put</p> <p>18 Officer Muller in a head lock and prevented</p> <p>19 him from restraining Dr. Guida, Dr. Guida was</p> <p>20 aggressive toward the civilian dock master and 10:33:14</p> <p>21 he got hurt.</p> <p>22 Q. So let me understand you</p> <p>23 correctly. Fiorillo put Muller in a head</p> <p>24 lock?</p> <p>25 A. Yes, he did. 10:33:23</p>	<p>1 Hesse</p> <p>2 Q. Where would I find it?</p> <p>3 A. On the schedules or maybe copies</p> <p>4 of the blotters or something like that.</p> <p>5 Q. Where would there be a record of 10:34:15</p> <p>6 the arrest of Dr. Guida?</p> <p>7 A. That was definitely turned over.</p> <p>8 It is definitely in our files somewhere.</p> <p>9 Q. Let's look at paragraph 46 and 47</p> <p>10 and 48. Please read those and tell me when 10:34:34</p> <p>11 you are done?</p> <p>12 A. Okay.</p> <p>13 Q. In 46 Mr. Fiorillo is alleging in</p> <p>14 part that on one occasion you demanded of him</p> <p>15 to transport you to a party at a private 10:35:14</p> <p>16 residence in Ocean Beach.</p> <p>17 Did you ever demand that Mr.</p> <p>18 Fiorillo transport you to a private residence</p> <p>19 in Ocean Beach for the purpose of attending a</p> <p>20 party? 10:35:25</p> <p>21 A. No.</p> <p>22 Q. Did you ever ask him to transport</p> <p>23 you to a party on a private residence in Ocean</p> <p>24 Beach?</p> <p>25 A. Not that I recall. 10:35:32</p>

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<p>1 Hesse</p> <p>2 Q. Did you ever require Mr. Fiorillo</p> <p>3 to pick you up from a party at a private</p> <p>4 residence?</p> <p>5 A. No. 10:35:45</p> <p>6 Q. On Ocean Beach?</p> <p>7 A. No.</p> <p>8 Q. Let me ask you this question</p> <p>9 because I asked Mr. Paradiso a couple of</p> <p>10 questions. How long would it take to drive 10:35:56</p> <p>11 one of your police vehicles from the north to</p> <p>12 the south part of Ocean Beach?</p> <p>13 A. About two minutes.</p> <p>14 Q. How about from east and west</p> <p>15 within Ocean Beach? 10:36:06</p> <p>16 A. Ten blocks, and they are not</p> <p>17 regular blocks, there are maybe 200 feet</p> <p>18 between each block.</p> <p>19 Q. So taking a police vehicle from</p> <p>20 east to west, how long would it take to drive? 10:36:16</p> <p>21 A. A minute or two.</p> <p>22 Q. And north to south?</p> <p>23 A. The same.</p> <p>24 Q. In paragraph 47 Mr. Fiorillo makes</p> <p>25 some allegations concerning a known drug 10:36:36</p>	<p>1 Hesse</p> <p>2 paragraph 50 to yourself and advise me when</p> <p>3 you are done reading it.</p> <p>4 A. Okay.</p> <p>5 Q. Now in paragraph 50 it appears 10:38:16</p> <p>6 that Mr. Fiorillo is alleging in part that you</p> <p>7 interfered in the issuance of a summons by him</p> <p>8 to the son of a business owner in Ocean Beach.</p> <p>9 Do you have any recollection as to</p> <p>10 what Mr. Fiorillo is referring to in paragraph 10:38:35</p> <p>11 50?</p> <p>12 A. I have no idea.</p> <p>13 Q. Did you ever tear up a summons</p> <p>14 that Fiorillo issued to anybody in Ocean</p> <p>15 Beach? 10:38:44</p> <p>16 A. Never.</p> <p>17 Q. Let's please read 51 and tell me</p> <p>18 when you are done.</p> <p>19 A. Okay.</p> <p>20 Q. Did you ever instruct any of the 10:39:13</p> <p>21 plaintiffs not to issue summonses to any bar</p> <p>22 in Ocean Beach?</p> <p>23 A. No.</p> <p>24 Q. Did you ever advise any of the</p> <p>25 plaintiffs that certain bars should not be -- 10:39:25</p>
Page 820	Page 822
<p>1 Hesse</p> <p>2 dealer, although he doesn't identify who the</p> <p>3 known drug dealer is anywhere in the</p> <p>4 complaint.</p> <p>5 Mr. Hesse, did Mr. Fiorillo ever 10:36:45</p> <p>6 inquire with you with regard to any</p> <p>7 relationship you have with a drug dealer?</p> <p>8 A. No.</p> <p>9 Q. Did you ever advise Mr. Fiorillo</p> <p>10 that you have as a close personal friend a 10:36:59</p> <p>11 drug dealer who lives in Ocean Beach?</p> <p>12 A. No.</p> <p>13 Q. Did you ever forbid Mr. Fiorillo</p> <p>14 from interfering with any drug dealer's</p> <p>15 activity in Ocean Beach? 10:37:16</p> <p>16 A. Never.</p> <p>17 Q. To your knowledge -- withdrawn.</p> <p>18 Let's go to paragraph 49. Did you</p> <p>19 ever require any of the plaintiffs to</p> <p>20 chauffeur you to various residences within 10:37:38</p> <p>21 Ocean Beach for non-police business?</p> <p>22 A. No.</p> <p>23 Q. How about outside of Ocean Beach?</p> <p>24 A. No.</p> <p>25 Q. Let's go to paragraph 50. Read 10:37:49</p>	<p>1 Hesse</p> <p>2 withdrawn.</p> <p>3 Did any of the plaintiffs ever</p> <p>4 complain to you about you selectively</p> <p>5 enforcing the law? 10:39:43</p> <p>6 A. No.</p> <p>7 MR. GOODSTADT: Objection.</p> <p>8 Q. Please read 52 and 53 and tell me</p> <p>9 when you are done?</p> <p>10 A. Okay. 10:40:00</p> <p>11 Q. Now in 52 plaintiffs are alleging</p> <p>12 an incident involving Snyder and Lamm where</p> <p>13 they witnessed a down pure of beer falling at</p> <p>14 their feet. Do you see where they are</p> <p>15 referring to? 10:40:56</p> <p>16 A. Yes.</p> <p>17 Q. Let's look at 53. According to</p> <p>18 the plaintiffs in 53 you, Mr. Hesse, directed</p> <p>19 Officers Lamm and Snyder not to issue any</p> <p>20 citations or make any arrest with regard to 10:41:12</p> <p>21 these alleged under age individuals drinking</p> <p>22 alcohol in that apartment building.</p> <p>23 Did you ever direct Lamm and</p> <p>24 Snyder not to issue any citations or make any</p> <p>25 arrests to these youths who they say were 10:41:27</p>

5 (Pages 819 to 822)

<p style="text-align: right;">Page 823</p> <p>1 Hesse</p> <p>2 breaking the law?</p> <p>3 A. No.</p> <p>4 Q. Did Lamm or Snyder ever relay the</p> <p>5 incident to you where they believed that beer 10:41:35</p> <p>6 was thrown at them?</p> <p>7 A. Yes.</p> <p>8 Q. What did they say to you?</p> <p>9 A. Tommy Snyder -- well I was called</p> <p>10 to the scene. Tommy Snyder said that some 10:41:45</p> <p>11 beer had dripped on him, I don't know if it</p> <p>12 was a down pure of beer, but I think he got a</p> <p>13 few drips on his head, because there was some</p> <p>14 intox kid dumping beer down the, I guess the</p> <p>15 slope of the roof and it dripped on to Officer 10:41:59</p> <p>16 Snyder.</p> <p>17 So when I received we went up</p> <p>18 there, we identified the kid, he was 21. His</p> <p>19 father happened to be a lieutenant in Nassau</p> <p>20 County PD. I asked Snyder what do you want me 10:42:14</p> <p>21 to do with this. He said let's just call the</p> <p>22 father, which we did, to let the father know</p> <p>23 what his son just did.</p> <p>24 We went up to the residence where</p> <p>25 the renter of the residence John was on the 10:42:29</p> <p style="text-align: right;">Page 824</p>	<p style="text-align: right;">Page 825</p> <p>1 Hesse</p> <p>2 paraphernalia not being present in that</p> <p>3 apartment. You are referring to the</p> <p>4 allegation in paragraph 52 when the plaintiffs</p> <p>5 alleged that there was an extensive collection 10:43:52</p> <p>6 of such paraphernalia; correct?</p> <p>7 A. Yes.</p> <p>8 Q. It is your testimony that that</p> <p>9 allegation is incorrect?</p> <p>10 A. Correct. 10:43:59</p> <p>11 Q. And it is your position with</p> <p>12 regard to the incidents being described in 52</p> <p>13 and 53 that you asked Tommy Snyder what he</p> <p>14 wanted to do, and Snyder's response was to</p> <p>15 call the father? 10:44:17</p> <p>16 A. That is it.</p> <p>17 Q. Okay. Go to paragraph 54, please</p> <p>18 read it and tell me when you are done.</p> <p>19 A. Okay.</p> <p>20 Q. There has been some confusion 10:44:49</p> <p>21 among some of the witnesses who looked at this</p> <p>22 paragraph. Is 54 in your opinion still</p> <p>23 referring to the same evening in the same</p> <p>24 apartment that 52 and 53 are referring to?</p> <p>25 MR. GOODSTADT: Objection. 10:45:02</p> <p style="text-align: right;">Page 826</p>
<p>1 Hesse</p> <p>2 scene, I forget his last name. We wrote him a</p> <p>3 summons for noise. We did find a small pipe</p> <p>4 for smoking marijuana. There was not</p> <p>5 extensive drugs or drug paraphernalia there. 10:42:46</p> <p>6 There was one pipe that was sitting on a</p> <p>7 counter. There was some empty beer cans</p> <p>8 sitting around.</p> <p>9 I believe John had maybe his</p> <p>10 sister, younger sister and some of her friends 10:43:01</p> <p>11 there which none of them were seen drinking</p> <p>12 any alcohol, because I believe the officers</p> <p>13 had checked because I was dealing with John.</p> <p>14 I confiscated the pipe, I went out to the</p> <p>15 balcony so everybody could see and I threw the 10:43:19</p> <p>16 pipe into the bay. And that was the end of</p> <p>17 the story.</p> <p>18 Q. Now who was the police officer of</p> <p>19 Nassau County?</p> <p>20 A. I don't remember his name. 10:43:26</p> <p>21 Q. What was his title?</p> <p>22 A. He was a lieutenant, I remember</p> <p>23 him being a lieutenant.</p> <p>24 Q. Now you made reference to an</p> <p>25 extensive collection of illicit drug 10:43:38</p>	<p>1 Hesse</p> <p>2 MR. CONNOLLY: Objection.</p> <p>3 A. My opinion; it could be. I don't</p> <p>4 know.</p> <p>5 Q. Now did you ever prohibit the 10:45:05</p> <p>6 plaintiffs from investigating any crime that</p> <p>7 took place in that apartment that evening or</p> <p>8 any other evening?</p> <p>9 A. No.</p> <p>10 Q. Did you ever instruct any of the 10:45:16</p> <p>11 plaintiffs to stay away from that apartment</p> <p>12 and not investigate any alleged act of</p> <p>13 criminality?</p> <p>14 A. Never.</p> <p>15 Q. That night or any night 10:45:27</p> <p>16 afterwards?</p> <p>17 A. Never.</p> <p>18 Q. Now in the last sentence of</p> <p>19 paragraph 54 the plaintiffs allege as follows</p> <p>20 and I will quote this: Indeed on another 10:45:39</p> <p>21 occasion plaintiffs even observed certain of</p> <p>22 the uncertified officers on the apartment</p> <p>23 balcony drinking and socializing with the same</p> <p>24 group of minors. Close quote.</p> <p>25 Did any of the plaintiffs ever 10:45:58</p>

6 (Pages 823 to 826)

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<p>1 Hesse</p> <p>2 advise you that they ever saw any other</p> <p>3 officer drinking and socializing with anyone</p> <p>4 on the balcony of that apartment?</p> <p>5 A. Never. 10:46:12</p> <p>6 Q. Let's go to paragraph 55, please</p> <p>7 read it and tell me when you are done?</p> <p>8 A. Okay.</p> <p>9 Q. Did you ever encourage minors to</p> <p>10 abuse alcohol? 10:46:39</p> <p>11 MR. GOODSTADT: Objection.</p> <p>12 A. No.</p> <p>13 MR. NOVIKOFF: What is the</p> <p>14 objection, it is your allegation; in yet</p> <p>15 another instance of Hesse encouraging 10:46:46</p> <p>16 minors to abuse alcohol, so I am asking</p> <p>17 him. So what is the objection?</p> <p>18 MR. GOODSTADT: The allegation is</p> <p>19 encouraging. I don't know if he has the</p> <p>20 same definition that we would have. So 10:46:54</p> <p>21 object to the form.</p> <p>22 MR. NOVIKOFF: Because you don't</p> <p>23 think he has the same definition of what</p> <p>24 you have as encouraging?</p> <p>25 MR. GOODSTADT: Maybe. 10:47:05</p>	<p>1 Hesse</p> <p>2 another officer issued a citation to any minor</p> <p>3 carrying a case of beer?</p> <p>4 A. No.</p> <p>5 Q. Did you ever -- are you aware of 10:48:01</p> <p>6 any incidents involving any officer issuing a</p> <p>7 citation to a minor carrying a case of beer?</p> <p>8 A. I know the incident that they are</p> <p>9 referring to.</p> <p>10 Q. In paragraph 55? 10:48:14</p> <p>11 A. Yes.</p> <p>12 Q. What is that incident?</p> <p>13 A. I believe we talked about it on</p> <p>14 one of my other days. There was a kid that</p> <p>15 works for CJ's. CJ's has an off premise 10:48:23</p> <p>16 license, they have an off premise sale</p> <p>17 license, and I believe he was delivering a</p> <p>18 case of beer to -- of course it is to the</p> <p>19 apartment where this other incident had taken</p> <p>20 place. But the kids were 21. He was 10:48:45</p> <p>21 delivering a case of beer. I don't remember</p> <p>22 if it was Lamm or Fiorillo who issued the</p> <p>23 summons to him. But I advised the kid bring</p> <p>24 the receipt, bring the license, a copy of the</p> <p>25 license, go to court, plead your case, he did, 10:49:02</p>
Page 828	Page 830
<p>1 Hesse</p> <p>2 MR. NOVIKOFF: Okay, that is fine.</p> <p>3 Q. What is your definition of</p> <p>4 encouraging, Mr. Hesse?</p> <p>5 A. It could be that I permitted them 10:47:10</p> <p>6 or I actually handed them the beer and said</p> <p>7 drink it, drink it.</p> <p>8 Q. Under any definition that you may</p> <p>9 have as to the word encouraging did you ever</p> <p>10 encourage minors to abuse alcohol? 10:47:23</p> <p>11 A. No.</p> <p>12 Q. Did you ever encourage minors to</p> <p>13 drink alcohol?</p> <p>14 A. No.</p> <p>15 Q. Did you ever permit minors to 10:47:31</p> <p>16 drink alcohol in your presence?</p> <p>17 A. No.</p> <p>18 Q. Did you ever condone minors of</p> <p>19 drinking alcohol in your presence?</p> <p>20 A. No. 10:47:40</p> <p>21 Q. Did you ever tell any of the</p> <p>22 plaintiffs not to issue summonses to any</p> <p>23 minors that they found to be drinking alcohol?</p> <p>24 A. No.</p> <p>25 Q. Did you ever intervene when 10:47:48</p>	<p>1 Hesse</p> <p>2 and it was dismissed.</p> <p>3 Q. So when you say the kid was 21,</p> <p>4 you are saying the kid who the beer was being</p> <p>5 delivered to? 10:49:10</p> <p>6 A. Correct. The kid that purchased</p> <p>7 the beer was 21.</p> <p>8 Q. Okay. So let me understand what</p> <p>9 happened. Some kid purchased -- the kid who</p> <p>10 was 21 purchased the case of beer from CJ's? 10:49:23</p> <p>11 A. Yes. He ordered it.</p> <p>12 Q. He ordered it?</p> <p>13 A. Yes.</p> <p>14 Q. And it was delivered to him?</p> <p>15 A. It was in the process of being 10:49:33</p> <p>16 delivered to him.</p> <p>17 Q. Who was delivering it to him?</p> <p>18 A. Some kid Paul, I can't think of</p> <p>19 the last name, he has been mentioned a couple</p> <p>20 of times. 10:49:39</p> <p>21 Q. Was this kid Paul a minor?</p> <p>22 A. He was 20.</p> <p>23 Q. He was delivering the beer to your</p> <p>24 knowledge on behalf of CJ's to the kid in the</p> <p>25 apartment who was 21? 10:49:50</p>

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<p style="text-align: right;">Page 831</p> <p>1 Hesse</p> <p>2 A. Correct.</p> <p>3 Q. Okay, now, was the citation issued</p> <p>4 to this Paul kid who was 20, or was the</p> <p>5 citation issued to the 21 year old in the 10:49:57</p> <p>6 apartment?</p> <p>7 A. It was issued to the kid Paul who</p> <p>8 was making the delivery.</p> <p>9 Q. Okay, now, who issued the citation</p> <p>10 to the kid making the delivery? 10:50:16</p> <p>11 A. It was either Lamm or -- actually,</p> <p>12 no. It might have been John Dwyer. It was</p> <p>13 either John Dwyer, Kevin Lamm or Frank</p> <p>14 Fiorillo. Offhand I am not sure.</p> <p>15 Q. Now what communication if any did 10:50:27</p> <p>16 you have with regard to the kid Paul who was</p> <p>17 making the delivery concerning the citation</p> <p>18 that was issued to him?</p> <p>19 A. I believe I was already in the</p> <p>20 station house at my desk and they brought the 10:50:38</p> <p>21 kid Paul into the station house to issue the</p> <p>22 summons. And he was complaining, you know, I</p> <p>23 work for CJ's, I am making a delivery. Okay,</p> <p>24 well, if that is the truth bring all your</p> <p>25 documentation to court and prove your case. I 10:50:51</p>	<p style="text-align: right;">Page 833</p> <p>1 Hesse</p> <p>2 knowledge?</p> <p>3 A. He was.</p> <p>4 Q. And how do you know that?</p> <p>5 A. We checked his ID. 10:51:43</p> <p>6 Q. The plaintiffs then allege in the</p> <p>7 last sentence that Hesse later ordered that</p> <p>8 Officer Lamm refrain from issuing citations on</p> <p>9 enforcing the law against this youth.</p> <p>10 Since we now have two youths that 10:52:03</p> <p>11 are being referenced in the story by you, did</p> <p>12 you ever order Officer Lamm to refrain from</p> <p>13 issuing a citation or enforcing a law, any law</p> <p>14 against this guy Paul?</p> <p>15 A. No. 10:52:16</p> <p>16 Q. Same question with regard to the</p> <p>17 21 year old that picked up the case of beer?</p> <p>18 A. No.</p> <p>19 Q. In paragraph 56, please read</p> <p>20 paragraph 56 and then tell me when you are 10:52:29</p> <p>21 done?</p> <p>22 A. Okay.</p> <p>23 Q. Now let's look at the first</p> <p>24 sentence of paragraph 56. Here Snyder and</p> <p>25 Lamm are alleging that you advised the youths 10:53:06</p>
<p style="text-align: right;">Page 832</p> <p>1 Hesse</p> <p>2 wasn't sure.</p> <p>3 Q. And that was the extent of your</p> <p>4 communication with that kid Paul?</p> <p>5 A. Yes. 10:51:00</p> <p>6 Q. So the citation was issued?</p> <p>7 A. Yes.</p> <p>8 Q. And your advice to the kid was</p> <p>9 just prove your case in court?</p> <p>10 A. Exactly. 10:51:07</p> <p>11 Q. Now the plaintiffs then allege in</p> <p>12 55 that you returned the case of beer to the</p> <p>13 under aged youth. Did you return the case of</p> <p>14 beer to this kid Paul?</p> <p>15 A. No. 10:51:25</p> <p>16 Q. Did you take the case of beer to</p> <p>17 the other kid who was 21 in the apartment?</p> <p>18 A. No.</p> <p>19 Q. Do you have an understanding as to</p> <p>20 what plaintiffs mean when they say that you 10:51:32</p> <p>21 returned the case of beer to the under aged</p> <p>22 youth?</p> <p>23 A. The person who ordered it came and</p> <p>24 took it. He came and picked it up.</p> <p>25 Q. And he was 21 to the best of your 10:51:39</p>	<p style="text-align: right;">Page 834</p> <p>1 Hesse</p> <p>2 that were referenced in 54 and 55 -- I'm</p> <p>3 sorry, in 55, that you advised these youths</p> <p>4 that Officer Lamm was a loser.</p> <p>5 Did you ever advise any youth that 10:53:23</p> <p>6 Officer Lamm was a loser?</p> <p>7 A. No.</p> <p>8 Q. Did you ever advise any person</p> <p>9 that was issued a citation that Officer Lamm</p> <p>10 was a loser? 10:53:34</p> <p>11 A. No.</p> <p>12 Q. Did you ever advise these youths</p> <p>13 that no one likes Lamm as Lamm alleged in 56?</p> <p>14 A. No.</p> <p>15 Q. Did you ever advise any individual 10:53:43</p> <p>16 that was issued a citation that no one likes</p> <p>17 Lamm?</p> <p>18 A. No.</p> <p>19 Q. Did you ever advise any individual</p> <p>20 who was issued a citation that no one listens 10:53:55</p> <p>21 to Lamm and therefore they should not listen</p> <p>22 to Lamm?</p> <p>23 A. No.</p> <p>24 Q. Did you ever advise anybody --</p> <p>25 withdrawn. 10:54:02</p>

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<p>1 Hesse</p> <p>2 Did you ever advise any youth that</p> <p>3 they should not listen to Officer Lamm's</p> <p>4 lawful directives?</p> <p>5 A. No. 10:54:13</p> <p>6 Q. Now please read 60 and 61 and tell</p> <p>7 me when you are done?</p> <p>8 A. Okay.</p> <p>9 Q. Now, 60 is referring to an</p> <p>10 incident, if I am correct, involving a file 10:55:14</p> <p>11 cabinet being thrown in by one or both of the</p> <p>12 Bosetti's into the bay?</p> <p>13 A. Right.</p> <p>14 Q. And I think you spoke about that</p> <p>15 the last time, so I am not going to ask you 10:55:27</p> <p>16 questions about that.</p> <p>17 61 now if I understand it</p> <p>18 correctly, tell me if your understanding is</p> <p>19 differently, that in response to whatever</p> <p>20 involvement Fiorillo was in this file cabinet 10:55:39</p> <p>21 incident, you ordered him to spend three</p> <p>22 consecutive shifts standing motionless beneath</p> <p>23 a street like at the intersection of Denhoff</p> <p>24 Walk and Bay Walk.</p> <p>25 Do you have the same understanding 10:55:53</p>	<p>1 Hesse</p> <p>2 shifts in a row at the same location at</p> <p>3 Denhoff Walk and Bay Walk. Do you recall</p> <p>4 that?</p> <p>5 A. Correct. 10:56:55</p> <p>6 Q. Did that direction, putting</p> <p>7 Fiorillo on the same shift for more than one</p> <p>8 night in a row have anything to do with the</p> <p>9 incident involving the Bosetti's throwing a</p> <p>10 file cabinet in the water? 10:57:07</p> <p>11 A. Nothing.</p> <p>12 Q. Did you ever instruct Fiorillo on</p> <p>13 any occasion that he was forbidden to move</p> <p>14 from any assigned post during all of the times</p> <p>15 that he worked on the same shift you worked? 10:57:21</p> <p>16 A. No.</p> <p>17 Q. Did you ever instruct any officer</p> <p>18 during the time that you and Fiorillo worked</p> <p>19 on the same shifts that that officer was not</p> <p>20 permitted to speak with Fiorillo? 10:57:37</p> <p>21 A. No.</p> <p>22 Q. Paragraph 62 refers to an</p> <p>23 instruction by you to Fiorillo to wash the</p> <p>24 fleet of Ocean Beach Police Department</p> <p>25 vehicles before the end of his shift. 10:57:51</p>
Page 836	Page 838
<p>1 Hesse</p> <p>2 of 61 as I have?</p> <p>3 MR. CONNOLLY: Objection.</p> <p>4 A. He is trying to relate a couple of</p> <p>5 different incidents into one. That one thing 10:56:01</p> <p>6 had nothing to do with the other.</p> <p>7 Q. So when you say that one thing had</p> <p>8 nothing to do with the other, you are saying</p> <p>9 that whether Fiorillo spent three shifts</p> <p>10 standing motionless underneath a light had 10:56:17</p> <p>11 nothing to do with what occurred with the file</p> <p>12 cabinet with the Bosetti's?</p> <p>13 MR. GOODSTADT: Objection.</p> <p>14 MR. CONNOLLY: Objection.</p> <p>15 A. That is correct. 10:56:24</p> <p>16 Q. Let's stay on 61. Did you ever</p> <p>17 order Officer Fiorillo to spend three</p> <p>18 consecutive shifts standing motionless beneath</p> <p>19 a street light at the intersection of Denhoff</p> <p>20 Walk and Bay Walk? 10:56:35</p> <p>21 A. No.</p> <p>22 Q. I believe you did tell me at</p> <p>23 least, I don't know if you told Mr. Goodstadt</p> <p>24 in response to his questions, that you did</p> <p>25 require Mr. Fiorillo to spend a number of 10:56:45</p>	<p>1 Hesse</p> <p>2 Did you ever instruct Fiorillo to</p> <p>3 wash the fleet of Ocean Beach Police</p> <p>4 Department vehicles before the end of his</p> <p>5 shift? 10:58:00</p> <p>6 A. No.</p> <p>7 Q. How many vehicles are there in the</p> <p>8 fleet of the Ocean Beach Police Department?</p> <p>9 A. Then or now?</p> <p>10 Q. How about before April 2006; 10:58:09</p> <p>11 between the 2002 season and the 2005 season?</p> <p>12 A. We had two Expeditions, we had two</p> <p>13 little golf cart G.E.M. cars, and I think that</p> <p>14 was it.</p> <p>15 Q. Did you ever instruct any of the 10:58:30</p> <p>16 plaintiffs to ever wash the cars?</p> <p>17 A. I am sure I have over the years,</p> <p>18 yes.</p> <p>19 Q. Have you ever instructed other</p> <p>20 officers to wash the fleet of the Ocean Beach 10:58:39</p> <p>21 Police Department?</p> <p>22 A. I have done it myself, yes.</p> <p>23 Q. And you have done it yourself?</p> <p>24 A. Absolutely.</p> <p>25 MR. NOVIKOFF: I have no further 10:59:03</p>

9 (Pages 835 to 838)

<p style="text-align: right;">Page 839</p> <p>1 Hesse</p> <p>2 questions, thank you.</p> <p>3 MR. CONNOLLY: I have no</p> <p>4 questions.</p> <p>5 MR. BAPTISTE: Take a moment. 10:59:09</p> <p>6 THE VIDEOGRAPHER: The time is 11</p> <p>7 o'clock. We are off the record.</p> <p>8 (Recess taken.)</p> <p>9 EXAMINATION BY</p> <p>10 MR. BAPTISTE: 11:03:46</p> <p>11 THE VIDEOGRAPHER: The time is</p> <p>12 11:06, we are on the record.</p> <p>13 Q. Good morning, Mr. Hesse, I just</p> <p>14 have a few questions.</p> <p>15 A. Good morning. 11:05:19</p> <p>16 Q. I believe earlier you testified</p> <p>17 that -- actually do you know who Allison</p> <p>18 Sanchez is?</p> <p>19 A. Yes.</p> <p>20 Q. Who do you know her to be? 11:05:29</p> <p>21 A. She was an employee of Suffolk</p> <p>22 County Civil Service and I believe she was the</p> <p>23 account manager for Ocean Beach, the</p> <p>24 incorporated village of.</p> <p>25 Q. Could you describe any 11:05:45</p>	<p style="text-align: right;">Page 841</p> <p>1 Hesse</p> <p>2 Q. Previously you testified that you</p> <p>3 dropped off paperwork. Do you recall what</p> <p>4 documents if any you did deliver?</p> <p>5 A. I believe -- I don't remember the 11:06:53</p> <p>6 name of the document, but there were documents</p> <p>7 that had to be filled out when a police</p> <p>8 officer has passed his qualifying exams, the</p> <p>9 four exams. It has to be signed off on by</p> <p>10 Civil Service so I can send to it the registry 11:07:09</p> <p>11 of New York State.</p> <p>12 Q. At any time covered in this</p> <p>13 complaint were you ever involved romantically</p> <p>14 with Ms. Sanchez?</p> <p>15 A. Never. 11:07:24</p> <p>16 Q. How about outside the time of this</p> <p>17 complaint?</p> <p>18 A. No.</p> <p>19 MR. BAPTISTE: No further</p> <p>20 questions. 11:07:32</p> <p>21 MR. CONNOLLY: I have no</p> <p>22 questions.</p> <p>23 MR. GOODSTADT: I do.</p> <p>24 EXAMINATION BY</p> <p>25 MR. GOODSTADT: 11:07:44</p>
<p style="text-align: right;">Page 840</p> <p>1 Hesse</p> <p>2 relationship that you had with Ms. Sanchez?</p> <p>3 MR. CONNOLLY: Objection.</p> <p>4 A. It was strictly professional.</p> <p>5 MR. GOODSTADT: We have an 11:05:55</p> <p>6 agreement, just one objection --</p> <p>7 MR. NOVIKOFF: Yes, one objection</p> <p>8 is for all.</p> <p>9 Q. During the time of covering this</p> <p>10 complaint have you ever met with Ms. Sanchez 11:06:07</p> <p>11 in a personal capacity?</p> <p>12 A. Well, I went to drop off some</p> <p>13 paperwork to her once and we went to lunch.</p> <p>14 But I would consider that a professional</p> <p>15 meeting. 11:06:22</p> <p>16 Q. When you say you went to lunch,</p> <p>17 you went to lunch in Suffolk County?</p> <p>18 A. Yes.</p> <p>19 Q. In Hauppauge?</p> <p>20 A. Yes. 11:06:28</p> <p>21 Q. Do you remember -- withdrawn.</p> <p>22 Do you recall what was discussed</p> <p>23 if anything during that lunch?</p> <p>24 A. Not really. It was just a lot of</p> <p>25 small talk. Nothing about the job itself. 11:06:42</p>	<p style="text-align: right;">Page 842</p> <p>1 Hesse</p> <p>2 MR. CONNOLLY: You have had ten</p> <p>3 hours, but that is fine. Go ahead, and</p> <p>4 if it becomes an issue I will deal with</p> <p>5 it. 11:08:07</p> <p>6 Q. Mr. Hesse, I just have some follow</p> <p>7 up questions regarding some testimony that you</p> <p>8 have given in response to questions asked by</p> <p>9 the Ocean Beach defendant's attorney, as well</p> <p>10 as the County's attorney. 11:08:19</p> <p>11 You testified about your blogging</p> <p>12 after April 2nd, do you recall your testimony</p> <p>13 last time?</p> <p>14 MR. CONNOLLY: Objection.</p> <p>15 A. Just the fact that I made some 11:08:28</p> <p>16 entries, yes.</p> <p>17 Q. You testified that you had not</p> <p>18 spoken with any trustee about your blog; is</p> <p>19 that correct?</p> <p>20 MR. NOVIKOFF: Objection. 11:08:38</p> <p>21 MR. CONNOLLY: Objection. I don't</p> <p>22 recall there being any question in that</p> <p>23 regard, although admittedly there have</p> <p>24 been thousands of questions.</p> <p>25 A. Yes. I believe I was asked did I 11:08:51</p>

<p style="text-align: right;">Page 843</p> <p>1 Hesse</p> <p>2 discuss my blog entries with any trustee, no.</p> <p>3 Q. Sitting here today did you ever</p> <p>4 discuss or have you spoken with any trustees</p> <p>5 for the Village of Ocean Beach anything about 11:09:02</p> <p>6 your blog entries?</p> <p>7 A. No.</p> <p>8 Q. Have you ever discussed or spoken</p> <p>9 with any member of the board of trustees of</p> <p>10 the Village of Ocean Beach just the fact that 11:09:12</p> <p>11 you have blogged?</p> <p>12 A. No.</p> <p>13 Q. At the time that you blogged after</p> <p>14 April 2, 2006 you were the top officer</p> <p>15 actively working for the Village of Ocean 11:09:24</p> <p>16 Beach; is that correct?</p> <p>17 A. Yes.</p> <p>18 Q. At that point in time you had the</p> <p>19 authority to hire and fire?</p> <p>20 A. Yes. 11:09:33</p> <p>21 Q. At that point in time you had the</p> <p>22 authority to make and administer policy with</p> <p>23 respect to the Police Department?</p> <p>24 A. Yes.</p> <p>25 MR. NOVIKOFF: Note my objection 11:09:40</p>	<p style="text-align: right;">Page 845</p> <p>1 Hesse</p> <p>2 hear that from anybody other than for perhaps</p> <p>3 your attorney or an attorney that represents</p> <p>4 you?</p> <p>5 A. No. 11:10:33</p> <p>6 MR. NOVIKOFF: Just so the record</p> <p>7 is clear, I believe we can stipulate that</p> <p>8 within the last week we all have been</p> <p>9 served by the Suffolk County supplemental</p> <p>10 response to your interrogatory requests 11:10:47</p> <p>11 concerning whether or not Ms. Sanchez</p> <p>12 posted any blogs, and in fact she did</p> <p>13 identify some blog entries. Just so to</p> <p>14 put this question into context of what we</p> <p>15 received. 11:11:03</p> <p>16 MR. GOODSTADT: Right, I just</p> <p>17 wanted to know if he had a conversation</p> <p>18 with her --</p> <p>19 MR. NOVIKOFF: No, legitimate, I</p> <p>20 understand that. 11:11:08</p> <p>21 Q. I want to go back to some</p> <p>22 questions that Mr. Novikoff asked you about</p> <p>23 the Halloween incident?</p> <p>24 A. Uh-hum.</p> <p>25 Q. Do you recall testifying in 11:11:19</p>
<p style="text-align: right;">Page 844</p> <p>1 Hesse</p> <p>2 to that question.</p> <p>3 Q. Have you ever spoken with or</p> <p>4 discussed your blog entries with Allison</p> <p>5 Sanchez? 11:09:50</p> <p>6 A. No.</p> <p>7 Q. Has Ms. Sanchez ever spoken with</p> <p>8 you or discussed with you any blog entries</p> <p>9 that she made?</p> <p>10 A. No. 11:09:57</p> <p>11 Q. Do you know whether Allison</p> <p>12 Sanchez has ever entered any post on the</p> <p>13 blogs?</p> <p>14 MR. CONNOLLY: Does he know</p> <p>15 personally -- 11:10:05</p> <p>16 Q. I am asking if he knows, not</p> <p>17 necessarily actually witness her type it in,</p> <p>18 but has anyone ever told you?</p> <p>19 A. I found out today that apparently</p> <p>20 she may have made some blog entries. 11:10:16</p> <p>21 Q. So prior to today you didn't know</p> <p>22 that?</p> <p>23 A. No.</p> <p>24 Q. And I don't want to impede upon</p> <p>25 the attorney/client privilege, but did you 11:10:24</p>	<p style="text-align: right;">Page 846</p> <p>1 Hesse</p> <p>2 response to Mr. Novikoff's questions about</p> <p>3 Halloween?</p> <p>4 A. Yes.</p> <p>5 Q. And he went through a series of 11:11:26</p> <p>6 the eyewitness statements that were taken in</p> <p>7 connection with the Halloween incident, do you</p> <p>8 recall that?</p> <p>9 A. Yes.</p> <p>10 Q. Then he went through select 11:11:32</p> <p>11 portions of some eyewitness statements and had</p> <p>12 asked you whether you knew if this person,</p> <p>13 meaning the eyewitness, had actually</p> <p>14 witnessed the part in which Mr. Bosetti used a</p> <p>15 pool cue to strike someone, do you recall 11:11:49</p> <p>16 that.</p> <p>17 MR. CONNOLLY: Objection to the</p> <p>18 form.</p> <p>19 A. Yes.</p> <p>20 Q. Do you recall testifying that in 11:11:53</p> <p>21 fact the witnesses that Mr. Novikoff asked you</p> <p>22 about, that you were not sure whether they</p> <p>23 witnessed the point -- the time period where</p> <p>24 Mr. Bosetti used the pool cue, do you recall</p> <p>25 that? 11:12:10</p>

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<p>1 Hesse</p> <p>2 MR. CONNOLLY: Objection.</p> <p>3 MR. NOVIKOFF: Objection.</p> <p>4 A. Repeat that question.</p> <p>5 Q. Yes. 11:12:16</p> <p>6 Mr. Novikoff walked you through</p> <p>7 certain witness statements, do you recall</p> <p>8 that?</p> <p>9 A. Yes.</p> <p>10 Q. And there were the witness 11:12:23</p> <p>11 statements that Mr. Novikoff walked you</p> <p>12 through that did not contain any allegation</p> <p>13 of, or contain any statement with respect to</p> <p>14 Mr. Bosetti using a pool cue. Do you recall</p> <p>15 that? 11:12:34</p> <p>16 A. Right.</p> <p>17 Q. Then he had asked you whether the</p> <p>18 individuals that he walked you through,</p> <p>19 whether they in fact told you that they even</p> <p>20 eyewitnessed the incident in which Mr. Bosetti 11:12:42</p> <p>21 used the pool cue, do you recall that?</p> <p>22 A. Yes.</p> <p>23 Q. In fact he even asked you if they</p> <p>24 had not witnessed it and they said something</p> <p>25 about it, and wrote something about it or gave 11:12:50</p>	<p>1 Hesse</p> <p>2 A. No.</p> <p>3 Q. Well what other statements did you</p> <p>4 have with respect to a pool cue by the time</p> <p>5 you made your conclusions within five days of 11:13:43</p> <p>6 investigating the incident?</p> <p>7 MR. CONNOLLY: Objection.</p> <p>8 A. Well, the dates -- I understand</p> <p>9 what you are saying, but Gary Bosetti himself</p> <p>10 admitted to using a pool cue. 11:13:55</p> <p>11 Q. But sir you testified that you</p> <p>12 didn't speak to Gary Bosetti during that five</p> <p>13 day period?</p> <p>14 A. Correct.</p> <p>15 Q. So my question is during that five 11:14:00</p> <p>16 day period the only witness statement that you</p> <p>17 had from anybody with respect to the use of a</p> <p>18 pool cue was from the statements that the</p> <p>19 on-duty officers took that evening; is that</p> <p>20 correct? 11:14:15</p> <p>21 A. Correct.</p> <p>22 Q. And yet you still concluded that</p> <p>23 Mr. Bosetti used proper force; correct?</p> <p>24 A. Correct.</p> <p>25 Q. Is it possible that all the other 11:14:24</p>
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<p>1 Hesse</p> <p>2 you the statement, that in fact it would be</p> <p>3 perjurious, correct, do you recall that?</p> <p>4 MR. CONNOLLY: Objection.</p> <p>5 A. Yes. 11:12:57</p> <p>6 Q. And you said yes, it would be</p> <p>7 perjurious?</p> <p>8 A. Yes.</p> <p>9 Q. Let me ask you, in the five days</p> <p>10 that you took to reach a conclusion about what 11:13:01</p> <p>11 happened at Halloween, did you speak to</p> <p>12 anybody who witnessed the incident in which</p> <p>13 Mr. Bosetti used a pool cue to strike</p> <p>14 somebody?</p> <p>15 MR. NOVIKOFF: Note my objection. 11:13:15</p> <p>16 MR. CONNOLLY: Objection.</p> <p>17 A. I believe no.</p> <p>18 Q. And yet you still reached a</p> <p>19 conclusion that Mr. Bosetti acted with</p> <p>20 appropriate force; is that correct? 11:13:23</p> <p>21 A. Correct.</p> <p>22 Q. And yet the only statement that</p> <p>23 you had in writing, verbally or otherwise</p> <p>24 about the use of a pool cue was the statements</p> <p>25 that the on-duty officers took; correct? 11:13:37</p>	<p>1 Hesse</p> <p>2 statements that you got from all the other</p> <p>3 eyewitnesses are correct, and yet Mr. Bosetti</p> <p>4 still used excessive force with a pool cue?</p> <p>5 MR. NOVIKOFF: Objection. 11:14:37</p> <p>6 MR. CONNOLLY: Objection.</p> <p>7 A. I don't believe he used excessive</p> <p>8 force.</p> <p>9 Q. I understand what your conclusion</p> <p>10 is. I understand what your conclusion is that 11:14:46</p> <p>11 you don't believe that he used excessive</p> <p>12 force. My question to you is on the day that</p> <p>13 you reached the conclusion five days after you</p> <p>14 started the investigation, is it possible that</p> <p>15 all the eyewitness statements that you 11:14:59</p> <p>16 received from all the people who didn't</p> <p>17 mention anything about a pool cue, is it</p> <p>18 possible that even if that -- those statements</p> <p>19 were correct and accurate, that Mr. Bosetti</p> <p>20 still could have used excessive force with the 11:15:11</p> <p>21 pool cue?</p> <p>22 MR. NOVIKOFF: Objection to the</p> <p>23 form because the eyewitness statements I</p> <p>24 presume you are including are those of</p> <p>25 the alleged victims. 11:15:23</p>

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<p>1 Hesse</p> <p>2 Q. Yes.</p> <p>3 A. Yes. They mentioned the pool cue.</p> <p>4 I never doubted that a pool cue was used.</p> <p>5 Q. I understand that. But how did 11:15:29</p> <p>6 you reach the conclusion that Mr. Bosetti had</p> <p>7 not used excessive force within the five days</p> <p>8 of starting the investigation when the only</p> <p>9 statement that you had about the use of a pool</p> <p>10 cue came from the victims of the -- who were 11:15:44</p> <p>11 struck by the pool cue in which they were</p> <p>12 alleging excessive force?</p> <p>13 MR. NOVIKOFF: Objection.</p> <p>14 MR. CONNOLLY: Objection.</p> <p>15 A. Well there was three of them, and 11:15:52</p> <p>16 the way I felt they were attacking the police</p> <p>17 officer at that point. So I do not believe it</p> <p>18 to be excessive.</p> <p>19 Q. Is it possible that a police</p> <p>20 officer could be attacked by a civilian and 11:16:03</p> <p>21 the police officer still use excessive force?</p> <p>22 MR. CONNOLLY: Objection.</p> <p>23 MR. NOVIKOFF: Objection. Maybe</p> <p>24 if they were midgets.</p> <p>25 A. You are speculating about 11:16:14</p>	<p>1 Hesse</p> <p>2 Q. That is not the question. The</p> <p>3 question was at the time that you reached your</p> <p>4 conclusion you had not taken a single</p> <p>5 statement from a witness who told you that 11:17:00</p> <p>6 they actually witnessed Mr. Bosetti use the</p> <p>7 pool cue?</p> <p>8 MR. NOVIKOFF: Objection.</p> <p>9 MR. CONNOLLY: Objection.</p> <p>10 A. I didn't have to take statements, 11:17:07</p> <p>11 there were three of them there.</p> <p>12 MR. CONNOLLY: Simple yes or no</p> <p>13 though.</p> <p>14 A. I did not, no.</p> <p>15 Q. Do you know whether Mr. Cherry 11:17:14</p> <p>16 took any statements from any individual who</p> <p>17 witnessed Mr. Bosetti use the pool cue?</p> <p>18 A. No.</p> <p>19 Q. You don't know or he didn't?</p> <p>20 A. I believe it is no. 11:17:23</p> <p>21 MR. CONNOLLY: Why don't you break</p> <p>22 down the question.</p> <p>23 Q. Did Mr. Cherry --</p> <p>24 MR. CONNOLLY: And by the way I</p> <p>25 believe he has been asked this. 11:17:34</p>
Page 852	Page 854
<p>1 Hesse</p> <p>2 something that may or may not happen somewhere</p> <p>3 in the world, I don't know, yes.</p> <p>4 MR. CONNOLLY: So the answer to</p> <p>5 counsel's question regarding 11:16:25</p> <p>6 possibilities, is it possible.</p> <p>7 A. Yes, why not.</p> <p>8 Q. And is it possible that Gary</p> <p>9 Bosetti used excessive force, even taking all</p> <p>10 the witness statements as true, at that point 11:16:31</p> <p>11 in time is it possible in your mind that Gary</p> <p>12 Bosetti used excessive force with that pool</p> <p>13 cue?</p> <p>14 MR. CONNOLLY: Objection.</p> <p>15 MR. NOVIKOFF: Objection. 11:16:39</p> <p>16 A. That was the point of the</p> <p>17 investigation, to get to the bottom of that.</p> <p>18 Q. And yet you didn't speak to a</p> <p>19 single person and you didn't take a single</p> <p>20 statement from anybody who actually witnessed 11:16:47</p> <p>21 Mr. Bosetti use the pool cue; is that correct?</p> <p>22 MR. NOVIKOFF: Objection.</p> <p>23 MR. CONNOLLY: Objection.</p> <p>24 A. Their statements are their</p> <p>25 statements. 11:16:54</p>	<p>1 Hesse</p> <p>2 Q. Did Mr. Cherry take any statements</p> <p>3 from any eyewitness who actually saw Gary</p> <p>4 Bosetti use a pool cue to strike somebody?</p> <p>5 MR. NOVIKOFF: Objection. 11:17:43</p> <p>6 MR. CONNOLLY: Objection.</p> <p>7 A. No.</p> <p>8 Q. I believe you testified that you</p> <p>9 heard some rumors that the plaintiffs thought</p> <p>10 that there was a cover-up. Do you recall 11:18:12</p> <p>11 testifying to that?</p> <p>12 A. Yes.</p> <p>13 Q. What rumors did you hear?</p> <p>14 A. That there was a cover-up.</p> <p>15 Q. Who did you hear the rumors from? 11:18:21</p> <p>16 A. I don't recall.</p> <p>17 Q. When did you hear the rumors?</p> <p>18 A. I don't recall that either.</p> <p>19 Q. Do you recall what year it was?</p> <p>20 A. It was probably in 2004. 11:18:29</p> <p>21 Q. Do you recall what the rumors</p> <p>22 were?</p> <p>23 MR. CONNOLLY: Objection.</p> <p>24 A. Not specifically, no.</p> <p>25 Q. How about generally? 11:18:38</p>

<p style="text-align: right;">Page 855</p> <p>1 Hesse</p> <p>2 A. Generally that we were covering up</p> <p>3 to save Gary Bosetti.</p> <p>4 Q. And do you recall any of the</p> <p>5 plaintiffs in which you heard the rumor that 11:18:51</p> <p>6 were -- strike that.</p> <p>7 As part of these rumors do you</p> <p>8 recall any of the plaintiffs who were alleging</p> <p>9 that you were covering up the Halloween</p> <p>10 incident to save Gary Bosetti? 11:19:09</p> <p>11 MR. NOVIKOFF: Objection.</p> <p>12 MR. CONNOLLY: Objection.</p> <p>13 A. You are going to have to rephrase</p> <p>14 that or something.</p> <p>15 Q. Which plaintiffs were the ones 11:19:16</p> <p>16 that you heard rumors about that were alleging</p> <p>17 there to be a cover-up?</p> <p>18 MR. CONNOLLY: Objection.</p> <p>19 MR. NOVIKOFF: Objection.</p> <p>20 MR. CONNOLLY: There has not been 11:19:27</p> <p>21 any testimony in that regard.</p> <p>22 MR. GOODSTADT: I think I led off</p> <p>23 the question by saying rumors --</p> <p>24 MR. CONNOLLY: I think you made a</p> <p>25 generalization that there were rumors, I 11:19:35</p>	<p style="text-align: right;">Page 857</p> <p>1 Hesse</p> <p>2 And what he meant by that I don't know.</p> <p>3 Q. But that is something that he said</p> <p>4 to you directly; correct?</p> <p>5 A. You know, yes. 11:20:28</p> <p>6 Q. I am talking now about the rumors,</p> <p>7 I am not talking about someone made the</p> <p>8 allegation to you directly. You testified to</p> <p>9 rumors. I want to know what rumors you are</p> <p>10 referring to? 11:20:36</p> <p>11 MR. NOVIKOFF: Objection.</p> <p>12 MR. CONNOLLY: Objection.</p> <p>13 A. They were just rumors just like</p> <p>14 any other rumor, how do they get around. Word</p> <p>15 of mouth. I don't know. 11:20:43</p> <p>16 Q. Who did you hear the rumors from?</p> <p>17 A. I don't recall.</p> <p>18 MR. CONNOLLY: Objection. He</p> <p>19 indicated he doesn't know.</p> <p>20 Q. Did you respond to the rumors? 11:20:50</p> <p>21 A. Not that I recall.</p> <p>22 Q. Did you ever speak with any of the</p> <p>23 plaintiffs about these rumors?</p> <p>24 A. Not specifically, no.</p> <p>25 Q. Did you ever speak with -- strike 11:20:59</p>
<p style="text-align: right;">Page 856</p> <p>1 Hesse</p> <p>2 don't think you specifically said --</p> <p>3 Q. Did you hear a rumor that the</p> <p>4 plaintiffs were claiming that there was an</p> <p>5 allegation of cover-up? 11:19:42</p> <p>6 A. I heard rumors, yes. I don't</p> <p>7 recall specifically coming from them, but you</p> <p>8 know I could speculate and say yes, but I</p> <p>9 don't know.</p> <p>10 Q. I am not saying that you actually 11:19:53</p> <p>11 heard the rumors from them. I am talking</p> <p>12 about whether you heard rumors that it was the</p> <p>13 plaintiffs who were the ones that were stating</p> <p>14 that there was a cover-up?</p> <p>15 A. I believe so. 11:20:03</p> <p>16 Q. Which plaintiffs?</p> <p>17 A. I don't know.</p> <p>18 Q. Do you recall any of the</p> <p>19 plaintiffs that you heard were claiming that</p> <p>20 there was a cover-up to save Gary Bosetti? 11:20:10</p> <p>21 A. I believe I did state in one of</p> <p>22 the other three days that I was here that</p> <p>23 Kevin Lamm had mentioned something about</p> <p>24 sweeping this under the carpet, or another</p> <p>25 situation of sweeping this under the carpet. 11:20:21</p>	<p style="text-align: right;">Page 858</p> <p>1 Hesse</p> <p>2 that.</p> <p>3 Did you ever speak to them</p> <p>4 generally about the fact that there was an</p> <p>5 allegation of a cover-up, other than for the 11:21:04</p> <p>6 conversation you had with Lamm about sweeping</p> <p>7 under the rug?</p> <p>8 MR. NOVIKOFF: Objection.</p> <p>9 A. No.</p> <p>10 Q. How come; why didn't you address 11:21:12</p> <p>11 it with them when you heard these rumors?</p> <p>12 MR. CONNOLLY: Objection.</p> <p>13 MR. NOVIKOFF: Objection.</p> <p>14 A. Well because I heard the rumors I</p> <p>15 did speak to them individually, but not about 11:21:21</p> <p>16 the rumors. Like I stated I think the last</p> <p>17 time I was here that I sat down with each one</p> <p>18 of them with the actual file for the whole</p> <p>19 Halloween incident and I said read it, you</p> <p>20 tell me what you see here. 11:21:35</p> <p>21 Kevin Lamm like I said refused to</p> <p>22 read it. Fiorillo read through it and he</p> <p>23 thought it was good at the time. And Snyder</p> <p>24 said that wow, I didn't know that, I didn't</p> <p>25 know that, I didn't know that. And he read 11:21:50</p>

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<p>1 Hesse</p> <p>2 through it and he thought it was good.</p> <p>3 MR. GOODSTADT: I think we have an</p> <p>4 agreement that I don't have to move to</p> <p>5 strike at this time? 11:21:59</p> <p>6 MR. NOVIKOFF: No, not at all.</p> <p>7 Q. I will re-ask the question.</p> <p>8 The question is why didn't you</p> <p>9 raise the rumors that you heard with the</p> <p>10 plaintiffs? 11:22:06</p> <p>11 A. I didn't see there was a point.</p> <p>12 Q. Did you ever speak with Gary</p> <p>13 Bosetti about the rumors?</p> <p>14 A. Not specifically, no.</p> <p>15 Q. How about generally did you ever 11:22:15</p> <p>16 speak with him about the rumors?</p> <p>17 A. I think there was some complaints</p> <p>18 on his behalf that he felt that, you know,</p> <p>19 that these guys were bad mouthing him saying</p> <p>20 that there were cover-ups. And I did tell 11:22:29</p> <p>21 Gary that, you know, I didn't believe his</p> <p>22 allegation that they were trying to hurt him</p> <p>23 or anything else. I just investigated what I</p> <p>24 had. Took what I had. Presented it to the DA</p> <p>25 and that was it. 11:22:42</p>	<p>1 Hesse</p> <p>2 chat with him about it.</p> <p>3 Q. Tell me what you recall being</p> <p>4 stated during that chat?</p> <p>5 A. I told him what I guess both sides 11:24:01</p> <p>6 were feeling, Gary and Richie, and then three</p> <p>7 of the plaintiffs, Fiorillo, Lamm and Snyder</p> <p>8 specifically. And I thought it would be a</p> <p>9 good idea that we get the group together and</p> <p>10 we hash it out. He refused to do so, he chose 11:24:16</p> <p>11 not to do it.</p> <p>12 Q. The chief chose not to do it?</p> <p>13 A. Correct.</p> <p>14 Q. Did he tell you why?</p> <p>15 A. No. 11:24:25</p> <p>16 Q. You testified about the District</p> <p>17 Attorney's involvement in the Halloween</p> <p>18 incident, do you recall that?</p> <p>19 A. Yes.</p> <p>20 Q. You testified that Mallory 11:24:38</p> <p>21 Sullivan reviewed it, do you recall that?</p> <p>22 A. Yes.</p> <p>23 Q. Did anyone in the DA's office</p> <p>24 conduct an independent investigation to your</p> <p>25 knowledge? 11:24:54</p>
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<p>1 Hesse</p> <p>2 Q. So Gary Bosetti made an allegation</p> <p>3 that he thought that the plaintiffs were</p> <p>4 trying to hurt him?</p> <p>5 A. Yes. 11:22:49</p> <p>6 Q. Did you ever speak to Richie</p> <p>7 Bosetti about the allegations of a cover-up or</p> <p>8 the rumors of a cover-up?</p> <p>9 A. No.</p> <p>10 MR. NOVIKOFF: Objection. 11:23:01</p> <p>11 Q. When did Gary Bosetti claim to you</p> <p>12 or complain to you that the plaintiffs were</p> <p>13 trying to hurt him?</p> <p>14 A. Specifically I don't remember.</p> <p>15 Q. Do you recall what year it was? 11:23:16</p> <p>16 A. It was probably at the end of 2004</p> <p>17 at some point.</p> <p>18 Q. Did you ever discuss the rumors of</p> <p>19 a cover-up after you heard them with anybody?</p> <p>20 A. I had spoken to Chief Paradiso 11:23:30</p> <p>21 about the whole incident.</p> <p>22 Q. Tell me when was that?</p> <p>23 A. Specifically I don't have a date,</p> <p>24 but it was right after I guess these rumors</p> <p>25 had begun that I sat him down and had a little 11:23:50</p>	<p>1 Hesse</p> <p>2 MR. NOVIKOFF: Objection.</p> <p>3 MR. CONNOLLY: Objection.</p> <p>4 A. To my knowledge no. I don't know.</p> <p>5 Q. And Mallory Sullivan is an 11:24:56</p> <p>6 attorney in the DA's office?</p> <p>7 A. Yes, she was a prosecutor.</p> <p>8 Q. Do you know whether any of the</p> <p>9 DA's investigators were involved in the</p> <p>10 Halloween incident? 11:25:07</p> <p>11 A. Not that I am aware of.</p> <p>12 Q. Did you ever speak with any DA</p> <p>13 investigator with respect to the Halloween</p> <p>14 incident?</p> <p>15 A. I did not. 11:25:13</p> <p>16 Q. Did you ever speak with any of the</p> <p>17 DA's investigators with respect to your</p> <p>18 investigation of the Halloween incident?</p> <p>19 A. I did not.</p> <p>20 Q. Then you testified that Van Koot 11:25:25</p> <p>21 and Schalik's attorneys received discovery, do</p> <p>22 you recall that?</p> <p>23 MR. NOVIKOFF: Objection.</p> <p>24 A. Yes.</p> <p>25 Q. What did they receive? 11:25:35</p>

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<p>1 Hesse</p> <p>2 MR. CONNOLLY: Objection.</p> <p>3 A. I wouldn't know. I think the</p> <p>4 court would have responded to that.</p> <p>5 Q. So you don't know? 11:25:44</p> <p>6 A. I don't know.</p> <p>7 Q. How do you know that they actually</p> <p>8 received discovery?</p> <p>9 A. I think we had a discovery demand,</p> <p>10 but specifically I don't know. 11:25:53</p> <p>11 Q. You were involved with responding</p> <p>12 to the demand?</p> <p>13 A. You know I don't recall.</p> <p>14 Q. Then you testified that you were</p> <p>15 upset that Fiorillo and Lamm went to Judge 11:26:13</p> <p>16 Russell with respect to the station house bail</p> <p>17 issue, do you recall that?</p> <p>18 A. Yes.</p> <p>19 Q. Why were you upset that they went</p> <p>20 to Judge Russell? 11:26:23</p> <p>21 A. They went outside the confines of</p> <p>22 the Police Department to get information about</p> <p>23 Police Department procedures.</p> <p>24 Q. So outside of the chain of</p> <p>25 command? 11:26:32</p>	<p>1 Hesse</p> <p>2 Q. Did you write them up at all?</p> <p>3 A. No.</p> <p>4 Q. Did you tell anybody else that</p> <p>5 they had violated your instruction with 11:27:14</p> <p>6 respect to the station house bail?</p> <p>7 A. I don't recall if I did.</p> <p>8 Q. Do you recall what year it was</p> <p>9 that they allegedly disobeyed your order?</p> <p>10 MR. CONNOLLY: Objection. 11:27:26</p> <p>11 A. I believe it was in a short</p> <p>12 timeframe, so it would have been close to when</p> <p>13 they did it the first time.</p> <p>14 Q. 2005?</p> <p>15 A. Yes. 11:27:34</p> <p>16 Q. Was that during the season or</p> <p>17 off-season?</p> <p>18 A. It would be during the season.</p> <p>19 Q. Did you ever speak with Judge</p> <p>20 Russell about the station house bail issue? 11:27:42</p> <p>21 A. I don't believe so.</p> <p>22 Q. Did you ever speak with any member</p> <p>23 of the board of trustees about the station</p> <p>24 house bail issue?</p> <p>25 A. No. 11:27:52</p>
Page 864	Page 866
<p>1 Hesse</p> <p>2 A. Absolutely.</p> <p>3 Q. Do you recall when that incident</p> <p>4 was?</p> <p>5 A. Specifically no. 11:26:34</p> <p>6 Q. Do you recall what year it was?</p> <p>7 A. May have been 2005.</p> <p>8 Q. Do you recall when in 2005?</p> <p>9 A. No.</p> <p>10 Q. Did you discipline them for going 11:26:48</p> <p>11 outside the chain of command?</p> <p>12 A. I talked to them.</p> <p>13 MR. CONNOLLY: Objection.</p> <p>14 Q. Did you memorialize your talk with</p> <p>15 them or any other discipline? 11:26:58</p> <p>16 A. No.</p> <p>17 Q. You testified that they had done</p> <p>18 it again after you spoke with them; is that</p> <p>19 correct?</p> <p>20 A. Yes. 11:27:05</p> <p>21 Q. Did you discipline them for doing</p> <p>22 that?</p> <p>23 MR. CONNOLLY: Objection.</p> <p>24 A. I counseled them, I had a talk</p> <p>25 with them. 11:27:10</p>	<p>1 Hesse</p> <p>2 Q. Did you ever speak with the mayor</p> <p>3 about the station house bail issue?</p> <p>4 A. No.</p> <p>5 Q. The mayor at the time was 11:27:56</p> <p>6 Ms. Rogers?</p> <p>7 A. Yes.</p> <p>8 Q. You testified last time in</p> <p>9 response to Mr. Novikoff's questions about</p> <p>10 instructing officers to drive other off-duty 11:28:12</p> <p>11 officers at the end of their shift, do you</p> <p>12 recall that?</p> <p>13 A. Yes.</p> <p>14 Q. Did you ever instruct any officers</p> <p>15 to drive off-duty officers out to the 11:28:23</p> <p>16 checkpoint when it was not the end of their</p> <p>17 shift?</p> <p>18 MR. NOVIKOFF: Objection, form,</p> <p>19 and I think we actually covered this</p> <p>20 through your -- in your original direct 11:28:33</p> <p>21 examination.</p> <p>22 MR. GOODSTADT: Right, but I was</p> <p>23 not sure what his response meant to your</p> <p>24 question about yes, I instructed them to</p> <p>25 do it at the end of their shift. 11:28:45</p>

16 (Pages 863 to 866)

<p style="text-align: right;">Page 867</p> <p>1 Hesse</p> <p>2 MR. NOVIKOFF: What is confusing</p> <p>3 about that response?</p> <p>4 Q. Was it as their shift ended or was</p> <p>5 it at some point later than that in which you 11:28:53</p> <p>6 instructed the officers to drive the off-duty</p> <p>7 officers to the checkpoint?</p> <p>8 MR. NOVIKOFF: Objection.</p> <p>9 MR. CONNOLLY: A point later</p> <p>10 meaning -- 11:29:06</p> <p>11 MR. GOODSTADT: A couple of hours</p> <p>12 later.</p> <p>13 MR. CONNOLLY: When they were off</p> <p>14 duty?</p> <p>15 MR. GOODSTADT: Yes. 11:29:13</p> <p>16 MR. CONNOLLY: So instructing</p> <p>17 off-duty officers --</p> <p>18 MR. GOODSTADT: Instructing</p> <p>19 on-duty officers to drive off-duty</p> <p>20 officers to the checkpoint. 11:29:17</p> <p>21 MR. CONNOLLY: Meaning making</p> <p>22 reference to several hours later after</p> <p>23 the officers who were driven got off the</p> <p>24 shift?</p> <p>25 MR. GOODSTADT: The off-duty 11:29:26</p> <p style="text-align: right;">Page 868</p>	<p style="text-align: right;">Page 869</p> <p>1 Hesse</p> <p>2 complain to you about doing that?</p> <p>3 A. Never.</p> <p>4 Q. Do you believe it was appropriate</p> <p>5 for the on-duty officers to drive off-duty 11:30:21</p> <p>6 officers to the checkpoint after they got out</p> <p>7 of the bars?</p> <p>8 MR. NOVIKOFF: Objection.</p> <p>9 MR. CONNOLLY: Objection.</p> <p>10 A. Yes. 11:30:28</p> <p>11 Q. How many officers were on duty</p> <p>12 generally on the weekends between 2 in the</p> <p>13 morning and 6 in the morning?</p> <p>14 MR. CONNOLLY: What years?</p> <p>15 Q. Between 2003 and 2005; the seasons 11:30:48</p> <p>16 of '03 to '05?</p> <p>17 A. They would not change much between</p> <p>18 the years. There could be -- well, between 2</p> <p>19 and 4 normally there would be close to eight</p> <p>20 officers, and usually minimum staffing we 11:31:02</p> <p>21 would have four to five officers between those</p> <p>22 time frames.</p> <p>23 Q. How about between 4 and 6 in the</p> <p>24 morning?</p> <p>25 A. 4 and 6 in the morning, usually a 11:31:17</p> <p style="text-align: right;">Page 870</p>
<p>1 Hesse</p> <p>2 officers, yes, several hours after their</p> <p>3 becoming off duty.</p> <p>4 MR. CONNOLLY: I understand the</p> <p>5 question now. 11:29:34</p> <p>6 Q. Because the testimony that I read</p> <p>7 and I understood from last time was that</p> <p>8 Mr. Hesse had instructed on-duty officers to</p> <p>9 drive off-duty officers to the checkpoint at</p> <p>10 the end of their shift, do you recall that? 11:29:47</p> <p>11 A. Yes.</p> <p>12 Q. Did you ever instruct on-duty</p> <p>13 officers to drive off-duty officers to the</p> <p>14 checkpoint when it was not at the end of the</p> <p>15 off-duty officer's shift? 11:29:56</p> <p>16 A. Sometimes, yes.</p> <p>17 Q. Was it -- did you ever instruct</p> <p>18 any on-duty officers to drive off-duty</p> <p>19 officers to the checkpoint after they got out</p> <p>20 of the bars in Ocean Beach? 11:30:08</p> <p>21 MR. NOVIKOFF: Objection to the</p> <p>22 form.</p> <p>23 MR. CONNOLLY: Objection.</p> <p>24 A. I may have.</p> <p>25 Q. Did any of the plaintiffs ever 11:30:13</p>	<p>1 Hesse</p> <p>2 tour would end at 4 o'clock and two or three</p> <p>3 officers would go off duty. And then from the</p> <p>4 midnight to 8 shift there would generally be</p> <p>5 three, sometimes four officers on duty. 11:31:28</p> <p>6 Q. I believe you testified that you</p> <p>7 had learned that they intended to make you</p> <p>8 acting chief or acting deputy chief in late</p> <p>9 December of 2005, do you recall that?</p> <p>10 A. Yes, I believe so. 11:31:57</p> <p>11 Q. How did you learn of the board of</p> <p>12 trustees intent?</p> <p>13 A. I believe Joe Loeffler came to</p> <p>14 talk to me about it.</p> <p>15 Q. Do you recall what he stated? 11:32:07</p> <p>16 A. Specifically, no.</p> <p>17 Q. Do you recall generally what he</p> <p>18 stated?</p> <p>19 A. He believed that because of the</p> <p>20 absence of Ed Paradiso as the chief that the 11:32:15</p> <p>21 Police Department needs to move forward and it</p> <p>22 has to be somebody that can make the decisions</p> <p>23 for the Police Department, so therefore they</p> <p>24 were going to promote me to this deputy chief.</p> <p>25 Q. At that point in time do you know 11:32:30</p>

17 (Pages 867 to 870)

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<p>1 Hesse</p> <p>2 whether Mr. Loeffler had known that you had</p> <p>3 not passed your sergeant's test?</p> <p>4 MR. CONNOLLY: Objection.</p> <p>5 A. Yes. 11:32:38</p> <p>6 Q. He knew that?</p> <p>7 A. Yes.</p> <p>8 Q. Did you speak to him about that at</p> <p>9 that time?</p> <p>10 A. I don't remember specifically 11:32:43</p> <p>11 about that time, but I have spoken to him</p> <p>12 about it.</p> <p>13 Q. How about prior to the decision by</p> <p>14 the board of trustees to promote you to deputy</p> <p>15 chief or acting deputy chief, had you spoken 11:32:52</p> <p>16 with Mr. Loeffler or anybody else on the board</p> <p>17 of trustees about the fact that you had not</p> <p>18 passed the sergeant's exam?</p> <p>19 MR. CONNOLLY: Objection.</p> <p>20 A. I may have talked to Joe Loeffler 11:33:02</p> <p>21 about it previous. I don't know about anybody</p> <p>22 else on the board.</p> <p>23 Q. Do you recall the sum and</p> <p>24 substance of any of those conversations?</p> <p>25 A. No, not specifically. No. 11:33:12</p>	<p>1 Hesse</p> <p>2 A. Specifically I don't remember the</p> <p>3 year, but we used to go through the whole</p> <p>4 summer with absolutely no bike riding any time</p> <p>5 day or night. Now they changed it to where 11:34:15</p> <p>6 you can ride between certain times and certain</p> <p>7 days.</p> <p>8 Q. Do you recall when they made that</p> <p>9 change?</p> <p>10 A. Not specifically, no. 11:34:23</p> <p>11 Q. Was it before or after the</p> <p>12 plaintiffs were terminated?</p> <p>13 MR. CONNOLLY: Objection.</p> <p>14 A. I believe it was before.</p> <p>15 MR. NOVIKOFF: Same agreement on 11:34:32</p> <p>16 use of the word?</p> <p>17 MR. GOODSTADT: Yes.</p> <p>18 MR. NOVIKOFF: Got it.</p> <p>19 Q. I believe you testified last time</p> <p>20 about Kevin Lamm conducting an illegal search 11:34:46</p> <p>21 and seizure, do you recall that?</p> <p>22 MR. CONNOLLY: Objection. Last</p> <p>23 time when --</p> <p>24 Q. In response to Mr. Novikoff's</p> <p>25 questions? 11:35:01</p>
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<p>1 Hesse</p> <p>2 Q. How about generally?</p> <p>3 A. No, not really.</p> <p>4 Q. And you are sure that was late</p> <p>5 December that you learned of the board's 11:33:24</p> <p>6 intent to promote you that next January?</p> <p>7 MR. CONNOLLY: Objection.</p> <p>8 A. I believe so.</p> <p>9 Q. You testified about I think you</p> <p>10 called it Officer Fiorillo's or Officer Lamm's 11:33:39</p> <p>11 discretion in writing summonses, do you recall</p> <p>12 that?</p> <p>13 A. Uh-hum.</p> <p>14 Q. And you mentioned something about,</p> <p>15 I think your quote was silly laws regarding 11:33:49</p> <p>16 bike riding in the village, do you recall</p> <p>17 that?</p> <p>18 A. Yes.</p> <p>19 Q. Did you ever petition the board to</p> <p>20 change the law with respect to bike riding? 11:33:57</p> <p>21 A. Actually I never petitioned it,</p> <p>22 but they have changed the laws a little bit</p> <p>23 here and there. They augmented them.</p> <p>24 Q. When did they change the laws with</p> <p>25 respect to bike riding? 11:34:06</p>	<p>1 Hesse</p> <p>2 A. Specifically no, I don't recall.</p> <p>3 Q. Do you recall Kevin Lamm ever</p> <p>4 conducting an illegal search and seizure?</p> <p>5 A. Yes. Are we talking about when he 11:35:11</p> <p>6 put some guys in handcuffs or are we talking</p> <p>7 about when he went into CJ's; you got to give</p> <p>8 me a little more specific.</p> <p>9 Q. Well I am asking do you believe</p> <p>10 that Mr. Lamm ever conducted an illegal search 11:35:24</p> <p>11 and seizure?</p> <p>12 A. Yes.</p> <p>13 Q. How many times?</p> <p>14 A. I don't know. A couple of</p> <p>15 incidents off the top of my head, maybe three 11:35:29</p> <p>16 or four times that I know of.</p> <p>17 Q. Did you ever discipline him for</p> <p>18 doing that?</p> <p>19 A. Yes.</p> <p>20 Q. How did you discipline him? 11:35:38</p> <p>21 A. Verbally.</p> <p>22 Q. Did you ever do anything in</p> <p>23 writing?</p> <p>24 A. No.</p> <p>25 Q. How many times did you discipline 11:35:42</p>

18 (Pages 871 to 874)

<p style="text-align: right;">Page 875</p> <p>1 Hesse</p> <p>2 him verbally?</p> <p>3 A. Off the top of my head maybe</p> <p>4 twice.</p> <p>5 Q. What was his response? 11:35:49</p> <p>6 A. He said he will never do it again.</p> <p>7 Q. Did you ever investigate whether</p> <p>8 he actually committed an illegal search and</p> <p>9 seizure?</p> <p>10 MR. NOVIKOFF: Objection. 11:36:05</p> <p>11 A. One of them the complaint was</p> <p>12 actually made by Tommy Snyder verbally to me,</p> <p>13 and the other one I witnessed myself.</p> <p>14 Q. How come you never wrote him up</p> <p>15 for the illegal search and seizure? 11:36:19</p> <p>16 MR. NOVIKOFF: Objection.</p> <p>17 A. He was counseled verbally. I</p> <p>18 didn't need to put it in writing.</p> <p>19 Q. Why not?</p> <p>20 MR. CONNOLLY: Objection. 11:36:30</p> <p>21 A. I didn't believe I had to.</p> <p>22 Q. Did you ever tell Chief Paradiso</p> <p>23 that Kevin Lamm performed an illegal search</p> <p>24 and seizure?</p> <p>25 A. I don't specifically remember if I 11:36:35</p> <p style="text-align: right;">Page 876</p> <p>1 Hesse</p> <p>2 did or not.</p> <p>3 Q. Did any civilian ever complain</p> <p>4 that Mr. Lamm engaged in an illegal search and</p> <p>5 seizure? 11:36:43</p> <p>6 A. Yes.</p> <p>7 Q. In writing?</p> <p>8 A. He chose not to.</p> <p>9 Q. Who was that?</p> <p>10 A. His first name was Caleb. I don't 11:36:46</p> <p>11 know what his last name is.</p> <p>12 Q. So how did you learn that Caleb</p> <p>13 was claiming that there was an illegal search</p> <p>14 and seizure?</p> <p>15 A. After Tommy Snyder had told me 11:37:00</p> <p>16 what was going on in reference to CJ's Bar, I</p> <p>17 believe Caleb came to see me in the days</p> <p>18 preceding Tommy telling me. So I asked him</p> <p>19 what happened, and he told me what happened.</p> <p>20 Q. Is Caleb an owner or an employee 11:37:17</p> <p>21 of CJ's?</p> <p>22 A. He was a bartender for a year or</p> <p>23 two.</p> <p>24 Q. Did you -- strike that.</p> <p>25 Caleb came to see you about the 11:37:27</p>	<p style="text-align: right;">Page 877</p> <p>1 Hesse</p> <p>2 issue?</p> <p>3 A. Yes.</p> <p>4 Q. At the police station?</p> <p>5 A. It might have been out front. 11:37:31</p> <p>6 Q. Did you make a blotter entry?</p> <p>7 A. No.</p> <p>8 Q. How come?</p> <p>9 A. I asked him if he wanted to put it</p> <p>10 in writing and he chose not to. So he just 11:37:40</p> <p>11 wanted to let me know what was going on.</p> <p>12 Q. Does a complaint or an allegation</p> <p>13 have to be in writing to make any -- for you</p> <p>14 to put in a blotter entry?</p> <p>15 MR. CONNOLLY: Objection. 11:37:54</p> <p>16 MR. NOVIKOFF: Objection.</p> <p>17 A. I would prefer, yes.</p> <p>18 Q. That wasn't the question. The</p> <p>19 question was does a complaint or allegation</p> <p>20 have to be in writing to lead you to the 11:38:00</p> <p>21 decision to make a blotter entry?</p> <p>22 A. Back then we didn't make many</p> <p>23 blotter when it came to stuff like that. We</p> <p>24 didn't make blotter entries for complainants</p> <p>25 coming in to make a complaint against the 11:38:12</p> <p style="text-align: right;">Page 878</p> <p>1 Hesse</p> <p>2 Police Department or a police officer.</p> <p>3 Q. Have you ever discussed with</p> <p>4 Paradiso your allegation that Mr. Lamm engaged</p> <p>5 in an unlawful search or seizure? 11:38:21</p> <p>6 MR. NOVIKOFF: Objection.</p> <p>7 MR. CONNOLLY: Objection.</p> <p>8 A. I don't recall.</p> <p>9 Q. I think you testified about</p> <p>10 Mr. Carter allegedly sleeping while on duty, 11:38:36</p> <p>11 do you recall that?</p> <p>12 A. Yes.</p> <p>13 Q. Did you ever tell Chief Paradiso</p> <p>14 that Ed Carter was sleeping on data?</p> <p>15 A. I don't recall if I did or not. 11:38:44</p> <p>16 Q. Did you ever anyone on the board</p> <p>17 of trustees that Ed Carter was sleeping on</p> <p>18 duty?</p> <p>19 MR. NOVIKOFF: Objection.</p> <p>20 A. No. 11:38:52</p> <p>21 Q. Did you ever write him up for</p> <p>22 sleeping on duty?</p> <p>23 A. No.</p> <p>24 Q. So let me understand. Mr. Carter</p> <p>25 was sleeping while he was being paid as a 11:38:59</p>
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19 (Pages 875 to 878)

Page 879	Page 881
<p>1 Hesse</p> <p>2 police officer; is that correct?</p> <p>3 A. That is correct.</p> <p>4 Q. Do you consider that stealing time</p> <p>5 from the department or from the village? 11:39:06</p> <p>6 MR. CONNOLLY: Objection.</p> <p>7 A. You could look at it that way,</p> <p>8 yes.</p> <p>9 Q. I am asking whether you looked at</p> <p>10 it that way? 11:39:13</p> <p>11 A. I didn't at the time, no.</p> <p>12 Q. You didn't look at it as he was</p> <p>13 stealing time while he was sleeping?</p> <p>14 A. No.</p> <p>15 Q. Did you view it as he was stealing 11:39:20</p> <p>16 money while being paid for sleeping?</p> <p>17 MR. NOVIKOFF: Objection. Isn't</p> <p>18 this beyond --</p> <p>19 MR. GOODSTADT: It is an</p> <p>20 allegation as to why he was terminated. 11:39:34</p> <p>21 MR. NOVIKOFF: Putting aside the</p> <p>22 fact that you had ten hours, and I can't</p> <p>23 speak for Kevin, but I think this is</p> <p>24 improper. Isn't this beyond the scope of</p> <p>25 any questions that I asked? 11:39:44</p>	<p>1 Hesse</p> <p>2 involvement in Halloween, you also mentioned</p> <p>3 that the judge had to sign off on your</p> <p>4 investigation before the arrests were made; is</p> <p>5 that correct? 11:41:19</p> <p>6 MR. CONNOLLY: Objection.</p> <p>7 A. I don't specifically think that</p> <p>8 the judge has to sign off on an investigation.</p> <p>9 No, I don't remember saying that.</p> <p>10 Q. Did the judge have to sign off 11:41:25</p> <p>11 before an arrest is made?</p> <p>12 A. No. I think you are</p> <p>13 mis-understanding what the judge signed off</p> <p>14 on.</p> <p>15 Q. What did the judge sign off on? 11:41:34</p> <p>16 A. The criminal summonses to be sent</p> <p>17 to the alleged defendants.</p> <p>18 Q. And the judge signed off on the</p> <p>19 criminal summonses that were sent to</p> <p>20 Mr. Schalik and Mr. Van Koot? 11:41:49</p> <p>21 A. I believe so. That is a court</p> <p>22 document, it is done with the court.</p> <p>23 Q. Was that same process of the court</p> <p>24 signing off on the summons performed in the</p> <p>25 Sam Gilbert matter when he was arrested? 11:42:01</p>
Page 880	Page 882
<p>1 Hesse</p> <p>2 MR. GOODSTADT: I don't think so.</p> <p>3 MR. NOVIKOFF: If I went into the</p> <p>4 issue of why he was terminated --</p> <p>5 MR. GOODSTADT: Which you did. 11:39:52</p> <p>6 MR. NOVIKOFF: Okay, you can ask</p> <p>7 him about those reasons.</p> <p>8 MR. GOODSTADT: I am.</p> <p>9 MR. NOVIKOFF: But now you are</p> <p>10 going into questions about why he didn't 11:39:59</p> <p>11 report certain things to certain people.</p> <p>12 MR. GOODSTADT: I didn't think --</p> <p>13 I believe the reasons are not true, so I</p> <p>14 can question him about it.</p> <p>15 MR. NOVIKOFF: Okay. 11:40:10</p> <p>16 MR. GOODSTADT: Just as I can</p> <p>17 question him at trial about it if it is</p> <p>18 raised. Go back to the last question.</p> <p>19 (Record read.)</p> <p>20 MR. CONNOLLY: Objection. 11:40:41</p> <p>21 A. I never looked at it that way, no.</p> <p>22 Q. Just to go back to the DA's</p> <p>23 investigation of the Halloween incident, did</p> <p>24 the DA -- strike that.</p> <p>25 Before we get to the DA's 11:41:05</p>	<p>1 Hesse</p> <p>2 MR. CONNOLLY: Objection.</p> <p>3 A. Correct, yes.</p> <p>4 Q. How about the DA's involvement</p> <p>5 that you testified to with respect to the 11:42:12</p> <p>6 Halloween incident, did the DA have a similar</p> <p>7 involvement with respect to the Sam Gilbert</p> <p>8 matter?</p> <p>9 MR. CONNOLLY: Objection.</p> <p>10 A. Yes. 11:42:18</p> <p>11 Q. Has the judge ever -- strike that.</p> <p>12 Has the judge in Ocean Beach ever</p> <p>13 refused to sign a criminal summons that you</p> <p>14 brought to the judge to sign?</p> <p>15 A. Not that I am aware of, no, never. 11:42:34</p> <p>16 MR. CONNOLLY: Objection.</p> <p>17 Q. I just want to go back again to a</p> <p>18 statement that you made with respect to Mr.</p> <p>19 Fiorillo's investigation of the Halloween</p> <p>20 incident. I believe in response to one of 11:42:53</p> <p>21 Mr. Novikoff's questions you testified that it</p> <p>22 was a poorly done investigation because he was</p> <p>23 not aggressive enough to go back into the bar</p> <p>24 to get statements, do you recall that?</p> <p>25 A. Not specifically, but yes. 11:43:07</p>

20 (Pages 879 to 882)

Page 883	Page 885
<p>1 Hesse</p> <p>2 Q. But you believe that he was not</p> <p>3 aggressive enough to go back into the bar to</p> <p>4 get statements?</p> <p>5 A. I think that he could have been a 11:43:16</p> <p>6 little more aggressive at speaking to people,</p> <p>7 yes.</p> <p>8 Q. Do you believe that the on-duty</p> <p>9 officers that didn't get statements from other</p> <p>10 people because they were not aggressive 11:43:23</p> <p>11 enough?</p> <p>12 MR. CONNOLLY: Objection.</p> <p>13 A. Yes.</p> <p>14 MR. GOODSTADT: Would you mark</p> <p>15 this document, blog posting, Bates 11:43:43</p> <p>16 numbers P 962 to P 1265, Hesse Exhibit</p> <p>17 30.</p> <p>18 (Hesse Exhibit 30, blog posting, P</p> <p>19 962 to P 1265, marked for</p> <p>20 identification, as of this date.) 11:44:40</p> <p>21 Q. I placed in front of Mr. Hesse</p> <p>22 what has now been marked as Hesse Exhibit 30,</p> <p>23 multiple page exhibit bearing Bates number P</p> <p>24 962 to P 1265.</p> <p>25 MR. CONNOLLY: I have 64. 11:45:03</p>	<p>1 Hesse</p> <p>2 would talk to you guys during your shitty</p> <p>3 investigation. Everyone hates you.</p> <p>4 Everyone knew that you were a rat.</p> <p>5 I think that that is exactly in 11:46:46</p> <p>6 response to, or at least contradicts what</p> <p>7 he has testified to in response to</p> <p>8 Mr. Novikoff.</p> <p>9 MR. NOVIKOFF: So obviously</p> <p>10 Mr. Hesse has properly identified that he 11:47:00</p> <p>11 was the author of the blog presumably</p> <p>12 based upon the interrogatory. His</p> <p>13 testimony is what it is. His blog says</p> <p>14 what it says. I am trying -- I am now</p> <p>15 trying to figure out the purpose of going 11:47:12</p> <p>16 through the blog.</p> <p>17 MR. CONNOLLY: It is duplicative.</p> <p>18 MR. GOODSTADT: It is not</p> <p>19 duplicative. It contradicts his</p> <p>20 testimony. That is exactly what redirect 11:47:27</p> <p>21 is for.</p> <p>22 MR. NOVIKOFF: Me and Mr. Connolly</p> <p>23 have different beliefs apparently as to</p> <p>24 your ten hours and what it was for. So I</p> <p>25 can't tell Mr. Hesse not to answer the 11:47:40</p>
Page 884	Page 886
<p>1 Hesse</p> <p>2 MR. GOODSTADT: It goes to the</p> <p>3 back of that page.</p> <p>4 Q. Could you turn to page P 970, post</p> <p>5 number 22. Are you there? 11:45:29</p> <p>6 A. Yes.</p> <p>7 Q. Why don't you take a second to</p> <p>8 read that post?</p> <p>9 MR. CONNOLLY: I am objecting to</p> <p>10 any questioning regarding the postings. 11:45:51</p> <p>11 You need to explain as to how they were</p> <p>12 delved into on questioning by the village</p> <p>13 attorney or the county attorney. It is</p> <p>14 beyond the scope of redirect.</p> <p>15 MR. GOODSTADT: First of all with 11:46:07</p> <p>16 respect to this post he has testified in</p> <p>17 response to questions by the beach's</p> <p>18 attorney that he believed that the</p> <p>19 officers didn't go inside to get -- or</p> <p>20 didn't appropriately go inside to get 11:46:21</p> <p>21 witness statements because they were not</p> <p>22 aggressive enough.</p> <p>23 This post clearly indicates that</p> <p>24 do you ever wonder why no one would talk</p> <p>25 to you -- did you ever notice why no one 11:46:36</p>	<p>1 Hesse</p> <p>2 question.</p> <p>3 MR. CONNOLLY: I think it is --</p> <p>4 MR. GOODSTADT: Also another basis</p> <p>5 is that he testified that in response to 11:47:46</p> <p>6 his threats that my clients would never</p> <p>7 get another job in law enforcement, that</p> <p>8 he never took any steps to prevent them</p> <p>9 from getting another job in law</p> <p>10 enforcement, and I think that statements 11:48:01</p> <p>11 on a blog where a community in law</p> <p>12 enforcement is reading it is a step.</p> <p>13 MR. NOVIKOFF: Well on that note,</p> <p>14 Andrew, I think it would be, putting</p> <p>15 aside the ten hours, we get past that 11:48:10</p> <p>16 issue, I think the question would be</p> <p>17 appropriate that you would ask him since</p> <p>18 he has admitted writing certain things on</p> <p>19 the blog, in sum and substance do you</p> <p>20 agree with the proposition that writing 11:48:24</p> <p>21 something on the blog that was not nice</p> <p>22 to your clients would be harmful to their</p> <p>23 getting jobs in the future; that is a</p> <p>24 very general question which would be</p> <p>25 responsive to that statement. 11:48:34</p>

Page 887	Page 889
<p>1 Hesse</p> <p>2 And I think there could be posed</p> <p>3 other general questions that would be</p> <p>4 responsive as opposed to going into</p> <p>5 certain blogs and each and every blog and 11:48:41</p> <p>6 going through it. That is my position,</p> <p>7 but it is Kevin's witness, so...</p> <p>8 MR. GOODSTADT: But in that case,</p> <p>9 and I don't know what the answer to that</p> <p>10 question -- 11:48:55</p> <p>11 MR. NOVIKOFF: The answer would be</p> <p>12 what it is and you would go from there.</p> <p>13 MR. GOODSTADT: But assuming he</p> <p>14 says that posting something negative or</p> <p>15 calling a police officer a rat and 11:49:02</p> <p>16 telling them that they did a shitty</p> <p>17 investigation in a forum in which other</p> <p>18 people in the police community would be</p> <p>19 reading it may affect their ability to</p> <p>20 get another job, and I want to be able to 11:49:15</p> <p>21 ask which ones he thinks would affect</p> <p>22 their ability to get another job.</p> <p>23 MR. CONNOLLY: I will allow</p> <p>24 general questions, general questions. We</p> <p>25 are not going through the blogs piece by 11:49:41</p>	<p>1 Hesse</p> <p>2 examination he certainly could have.</p> <p>3 MR. GOODSTADT: That is just not</p> <p>4 true.</p> <p>5 MR. NOVIKOFF: I am just 11:50:44</p> <p>6 objecting. I can't tell you not to do</p> <p>7 anything.</p> <p>8 MR. GOODSTADT: We had these</p> <p>9 discussions off the record about the</p> <p>10 positions on that. That is not true. 11:50:52</p> <p>11 MR. NOVIKOFF: Judge Boyle has</p> <p>12 issued whatever he has issued in terms of</p> <p>13 the amount of the deposition. Mr.</p> <p>14 Goodstadt has taken those ten hours. My</p> <p>15 position is that is all he was entitled 11:51:05</p> <p>16 to. But Mr. Hesse is not my witness so I</p> <p>17 can't, other than killing trees with my</p> <p>18 speech, I can't do anything about it.</p> <p>19 So it is between Kevin and Mr.</p> <p>20 Goodstadt to decide what they want to do 11:51:21</p> <p>21 with this, and that will be the last that</p> <p>22 I speak on this issue.</p> <p>23 MR. GOODSTADT: Certainly this</p> <p>24 question about directly contradicting</p> <p>25 testimony that he has already given, you 11:51:38</p>
Page 888	Page 890
<p>1 Hesse</p> <p>2 piece.</p> <p>3 MR. GOODSTADT: I don't see why</p> <p>4 not, I mean the door is open.</p> <p>5 MR. CONNOLLY: I disagree with 11:49:41</p> <p>6 that. I disagree that -- I still have</p> <p>7 problems with the fact that you believe</p> <p>8 the door was opened, I don't think it</p> <p>9 was.</p> <p>10 MR. GOODSTADT: I want to ask 11:49:54</p> <p>11 questions and see how open the door is.</p> <p>12 MR. NOVIKOFF: I don't know if a</p> <p>13 codefendant asks the question of another</p> <p>14 party, how that opens the door, presuming</p> <p>15 that is even appropriate in a deposition, 11:50:10</p> <p>16 to you asking questions of that witness.</p> <p>17 I can see if Mr. Connolly asked Mr. Hesse</p> <p>18 some questions that opened the door, but</p> <p>19 merely because I asked questions, Hesse</p> <p>20 is not my witness. 11:50:23</p> <p>21 I object to the fact that anything</p> <p>22 beyond ten hours is being used. I think</p> <p>23 the Judge Boyle was specific, he asked</p> <p>24 ten hours. If Mr. Goodstadt wants to</p> <p>25 reserve some time to engage in redirect 11:50:35</p>	<p>1 Hesse</p> <p>2 can let me ask with respect to that, and</p> <p>3 then when we get to the other questions</p> <p>4 we can narrow them down.</p> <p>5 MR. CONNOLLY: And it is your 11:51:52</p> <p>6 position that it contradicts what?</p> <p>7 MR. GOODSTADT: His testimony that</p> <p>8 the reason why they didn't get other</p> <p>9 statements was because they were not</p> <p>10 aggressive enough. Here it says nobody 11:52:30</p> <p>11 wants to speak to you because everybody</p> <p>12 hates you.</p> <p>13 MR. CONNOLLY: I don't think that</p> <p>14 was his testimony. I thought or I</p> <p>15 believe his testimony was something to 11:52:41</p> <p>16 the effect that he believes they were not</p> <p>17 aggressive as they could have been in</p> <p>18 getting statements. But I don't see what</p> <p>19 is contained in the blog as a</p> <p>20 contradiction to that statement. 11:53:01</p> <p>21 MR. GOODSTADT: Because it says do</p> <p>22 you ever wonder why no one would talk to</p> <p>23 you guys during your shitty</p> <p>24 investigation. The next sentence doesn't</p> <p>25 say because you were not aggressive 11:53:13</p>

<p style="text-align: right;">Page 891</p> <p>1 Hesse</p> <p>2 enough, it says everybody hates you.</p> <p>3 Everyone knew that you were a rat.</p> <p>4 That is why I think it contradicts</p> <p>5 it. 11:53:23</p> <p>6 MR. CONNOLLY: I don't think it</p> <p>7 contradicts it. If you want to ask him</p> <p>8 if he ever said something that he thought</p> <p>9 contradicted their not being possibly</p> <p>10 aggressive enough in obtaining 11:53:41</p> <p>11 statements.</p> <p>12 MR. GOODSTADT: I am not sure I</p> <p>13 understand what you are suggesting.</p> <p>14 MR. CONNOLLY: You can ask him if</p> <p>15 he -- I am not seeing the contradiction. 11:53:55</p> <p>16 MR. GOODSTADT: I believe it is a</p> <p>17 contradiction. Definitely obviously</p> <p>18 relates to the same issue that was asked.</p> <p>19 Asked by Mr. Novikoff, it was not asked</p> <p>20 by me originally. 11:54:21</p> <p>21 MR. CONNOLLY: What was the item</p> <p>22 asked?</p> <p>23 MR. GOODSTADT: The question was</p> <p>24 about his viewpoint on their</p> <p>25 investigation, and he said they did not 11:54:27</p>	<p style="text-align: right;">Page 893</p> <p>1 Hesse</p> <p>2 THE VIDEOGRAPHER: The time is</p> <p>3 12:26, we are on the record.</p> <p>4 Q. Mr. Hesse, at the last date of</p> <p>5 deposition you testified in response to one of 12:25:15</p> <p>6 Mr. Novikoff's questions that you had not done</p> <p>7 or taken any steps in furtherance of your</p> <p>8 threat that plaintiffs law enforcement careers</p> <p>9 would be over, do you recall that testimony?</p> <p>10 A. Yes. 12:25:29</p> <p>11 Q. You also I believe testified to</p> <p>12 and subsequently submitted some response to</p> <p>13 interrogatories regarding some blog posts you</p> <p>14 made, do you recall that?</p> <p>15 A. Yes. 12:25:41</p> <p>16 Q. You would agree with me, would you</p> <p>17 not, that the blog post that you admitted to</p> <p>18 posting contained some derogatory statements</p> <p>19 about the plaintiffs in this case?</p> <p>20 MR. CONNOLLY: Objection. You can 12:25:55</p> <p>21 answer.</p> <p>22 A. Yes.</p> <p>23 Q. Would you agree with me that</p> <p>24 posting the derogatory statements that you</p> <p>25 made about the plaintiffs in this case on the 12:26:07</p>
<p style="text-align: right;">Page 892</p> <p>1 Hesse</p> <p>2 do a good investigation, and he thought</p> <p>3 that Frank Fiorillo was not aggressive</p> <p>4 enough in obtaining witness statements.</p> <p>5 Here he is asking did you ever 11:54:36</p> <p>6 wonder why no one would talk to you guys.</p> <p>7 It has nothing to do with doing their</p> <p>8 investigation. His response isn't</p> <p>9 because you were not aggressive enough,</p> <p>10 his response is everyone hates you. 11:54:50</p> <p>11 Everyone knew then that you were a rat.</p> <p>12 MR. CONNOLLY: But they are not</p> <p>13 contradictory and not mutually exclusive.</p> <p>14 I am not following.</p> <p>15 MR. GOODSTADT: I want to know 11:55:01</p> <p>16 what he meant by that.</p> <p>17 MR. CONNOLLY: Well if it is not a</p> <p>18 contradiction I feel you are not entitled</p> <p>19 to ask it.</p> <p>20 MR. GOODSTADT: Well even if it is 11:55:08</p> <p>21 not a contradiction, it opens the door.</p> <p>22 Let's go off the record now.</p> <p>23 THE VIDEOGRAPHER: The time is</p> <p>24 11:36, we are off the record.</p> <p>25 (Recess taken.) 11:55:22</p>	<p style="text-align: right;">Page 894</p> <p>1 Hesse</p> <p>2 blog given the form that it is in would</p> <p>3 negatively impact their careers in law</p> <p>4 enforcement?</p> <p>5 MR. CONNOLLY: Objection. 12:26:20</p> <p>6 MR. NOVIKOFF: Objection.</p> <p>7 A. No.</p> <p>8 Q. Why not?</p> <p>9 MR. CONNOLLY: Objection.</p> <p>10 A. Because to tell you the truth to 12:26:24</p> <p>11 me this is a fantasy this blog. I have been</p> <p>12 in law enforcement 16 years, I have never seen</p> <p>13 this blog until somebody told me somebody</p> <p>14 wrote something about me. So why would</p> <p>15 anybody read this garbage. 12:26:40</p> <p>16 Q. Well why would you post it if you</p> <p>17 didn't intend people to read it?</p> <p>18 A. Maybe I was venting some</p> <p>19 frustration.</p> <p>20 Q. Have you ever spoken with anybody 12:26:49</p> <p>21 outside of Ocean Beach about the blog?</p> <p>22 A. No.</p> <p>23 MR. CONNOLLY: Note my objection.</p> <p>24 A. Actually yes, I am sorry.</p> <p>25 Q. Who have you spoken with? 12:27:04</p>

<p style="text-align: right;">Page 895</p> <p>1 Hesse</p> <p>2 A. Somebody from the Fire Island</p> <p>3 Ferry Company advised me that this blog was</p> <p>4 there, and that I should read it.</p> <p>5 Q. Who from the Fire Island Ferry 12:27:13</p> <p>6 Company?</p> <p>7 A. George Haffele, he was the vice</p> <p>8 president of the Ferry Company at the time.</p> <p>9 H-A-F-F-E-L-E, something like that.</p> <p>10 Q. Mr. Haffele is the vice president 12:27:29</p> <p>11 of the Ferry Company. Is that the ferry that</p> <p>12 takes the people back and forth to Fire</p> <p>13 Island?</p> <p>14 A. Yes.</p> <p>15 Q. Have you spoken to anybody else 12:27:43</p> <p>16 outside of Fire Island other than Mr. Haffele</p> <p>17 about the blog?</p> <p>18 A. No.</p> <p>19 Q. What was your intention in posting</p> <p>20 the negative statements about the plaintiffs 12:27:55</p> <p>21 in this matter?</p> <p>22 MR. NOVIKOFF: Objection.</p> <p>23 MR. CONNOLLY: Objection.</p> <p>24 A. Well, these were posts directed at</p> <p>25 other posts, maybe just to upset them a little 12:28:04</p>	<p style="text-align: right;">Page 897</p> <p>1 Hesse</p> <p>2 A. Specifically John Cherry and I</p> <p>3 recently have spoken about it.</p> <p>4 Q. Anybody else?</p> <p>5 A. No, not really. 12:29:25</p> <p>6 Q. You said that it was in response</p> <p>7 to other posts, do you recall that?</p> <p>8 A. Yes.</p> <p>9 Q. Do you have any evidence or</p> <p>10 information that any posts in the blog was 12:29:35</p> <p>11 posted by any of the plaintiffs in this</p> <p>12 matter?</p> <p>13 MR. CONNOLLY: Other than the</p> <p>14 contents of the blog; I am not quite sure</p> <p>15 I understand the question. 12:29:48</p> <p>16 Q. Well any contents of the blog?</p> <p>17 A. Do I have prove?</p> <p>18 Q. Any evidence, information, proof</p> <p>19 or the like that any of the plaintiffs posted</p> <p>20 on the blog? 12:29:59</p> <p>21 A. I have no proof.</p> <p>22 Q. I don't want to be narrowly</p> <p>23 tailored just to the word proof because I</p> <p>24 think that that has a sort of legal term. I</p> <p>25 want to know if you have any evidence or other 12:30:12</p>
<p style="text-align: right;">Page 896</p> <p>1 Hesse</p> <p>2 bit.</p> <p>3 Q. What do you mean by that, by</p> <p>4 either one, posts directed at other posts,</p> <p>5 what did you mean by that? 12:28:14</p> <p>6 A. Well most of these posts are</p> <p>7 directed at posts that were previously made.</p> <p>8 Q. What did you mean to upset them?</p> <p>9 A. The plaintiffs.</p> <p>10 Q. Would you agree with me that if 12:28:22</p> <p>11 another chief or a person of seniority in</p> <p>12 another police department were to read the</p> <p>13 negative statements that you made about my</p> <p>14 clients that it could affect their decision on</p> <p>15 whether to hire one of my clients? 12:28:42</p> <p>16 MR. NOVIKOFF: Objection.</p> <p>17 MR. CONNOLLY: Objection.</p> <p>18 A. To think of what somebody else</p> <p>19 might think; I couldn't speculate.</p> <p>20 Q. So you have no opinion one way or 12:28:50</p> <p>21 the other?</p> <p>22 MR. CONNOLLY: Objection.</p> <p>23 A. No.</p> <p>24 Q. Who within the department have you</p> <p>25 spoken with about the blogs? 12:29:10</p>	<p style="text-align: right;">Page 898</p> <p>1 Hesse</p> <p>2 information that would lead you to conclude</p> <p>3 that the plaintiffs posted -- any of the</p> <p>4 plaintiffs posted on the blog?</p> <p>5 A. Well the only one that I know for 12:30:21</p> <p>6 sure is the one that Tommy Snyder wrote</p> <p>7 because he identified himself. Other than</p> <p>8 that no.</p> <p>9 Q. I want to go back to some of the</p> <p>10 statements that you made -- strike that. 12:30:47</p> <p>11 When you said, I believe you</p> <p>12 called it a fantasy, is that what you called</p> <p>13 the blog?</p> <p>14 A. Yes.</p> <p>15 Q. Who did you understand would be 12:30:58</p> <p>16 reading the blog?</p> <p>17 MR. CONNOLLY: Objection.</p> <p>18 MR. NOVIKOFF: Objection.</p> <p>19 A. I don't know. I could probably</p> <p>20 speculate that members of the Ocean Beach 12:31:05</p> <p>21 Police Department and the plaintiffs.</p> <p>22 Q. Anybody else?</p> <p>23 A. I don't know.</p> <p>24 Q. It is publicly available the blog;</p> <p>25 is that correct? 12:31:15</p>

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<p>1 Hesse</p> <p>2 A. Sure.</p> <p>3 Q. Did you ever discuss the blog with</p> <p>4 any residents of Ocean Beach?</p> <p>5 A. No. 12:31:20</p> <p>6 Q. I just want to go back again to</p> <p>7 some of the statements that you made in</p> <p>8 response to Mr. Novikoff's questions about the</p> <p>9 reasons why you selected the plaintiffs for</p> <p>10 termination. 12:31:39</p> <p>11 I believe you testified that you</p> <p>12 selected Nofi in part because he approached</p> <p>13 people inappropriately?</p> <p>14 A. That was part of it, yes.</p> <p>15 Q. Did you ever write him up for 12:31:51</p> <p>16 that?</p> <p>17 A. No.</p> <p>18 Q. Did you ever speak with Chief</p> <p>19 Paradiso about that?</p> <p>20 A. I don't recall. 12:31:56</p> <p>21 Q. Did you ever suggest to Chief</p> <p>22 Paradiso that Joe Nofi should be terminated</p> <p>23 for the way he approached people?</p> <p>24 A. You know I don't recall.</p> <p>25 Q. Is there anything that you could 12:32:05</p>	<p>1 Hesse</p> <p>2 using that phrase.</p> <p>3 Q. Do you know what that phrase</p> <p>4 means, hidy tidy?</p> <p>5 A. I have no idea. 12:32:59</p> <p>6 Q. Did you ever personally witness Ed</p> <p>7 Carter sleeping?</p> <p>8 A. Yes.</p> <p>9 Q. While he was not on break and</p> <p>10 being paid? 12:33:07</p> <p>11 A. Yes.</p> <p>12 Q. How many times?</p> <p>13 A. Repeat that, on break or --</p> <p>14 Q. Not on break and being paid?</p> <p>15 A. And being paid, yes. 12:33:14</p> <p>16 Q. How many times?</p> <p>17 A. I don't recall how many times.</p> <p>18 Q. Did you ever discuss it with the</p> <p>19 chief, meaning Chief Paradiso?</p> <p>20 A. I don't recall if I did or not. 12:33:23</p> <p>21 Q. Is there anything that you can</p> <p>22 think of that would refresh your recollection?</p> <p>23 A. No.</p> <p>24 Q. Did you ever discuss it or address</p> <p>25 this issue with any members of the board of 12:33:30</p>
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<p>1 Hesse</p> <p>2 think of that would refresh your recollection?</p> <p>3 A. No.</p> <p>4 Q. Did you ever discipline Nofi for</p> <p>5 doing that, for inappropriately approaching 12:32:16</p> <p>6 people?</p> <p>7 A. Verbally.</p> <p>8 Q. How many times?</p> <p>9 A. I don't know.</p> <p>10 Q. Was anyone else present? 12:32:24</p> <p>11 A. Not that I am aware of, no.</p> <p>12 Q. Why didn't you write him up for</p> <p>13 it?</p> <p>14 MR. CONNOLLY: Objection.</p> <p>15 A. I didn't think he needed to be 12:32:30</p> <p>16 written up.</p> <p>17 Q. You didn't think it was to a level</p> <p>18 that needed to be written up.</p> <p>19 MR. CONNOLLY: Objection.</p> <p>20 A. No. 12:32:37</p> <p>21 Q. I believe that you said one of the</p> <p>22 reasons why you selected Mr. Carter for</p> <p>23 termination was that he was hidy tidy, do you</p> <p>24 recall using that phrase?</p> <p>25 A. Hidy tidy; no, I don't remember 12:32:47</p>	<p>1 Hesse</p> <p>2 trustees of Ocean Beach?</p> <p>3 A. No.</p> <p>4 Q. Did you ever discuss it with the</p> <p>5 mayor, either the current mayor or any former 12:33:36</p> <p>6 mayor of Ocean Beach the issue that you saw Ed</p> <p>7 Carter sleeping?</p> <p>8 A. No.</p> <p>9 Q. Did you dock Mr. Carter pay for</p> <p>10 the time that he was allegedly sleeping on 12:33:46</p> <p>11 duty?</p> <p>12 A. No.</p> <p>13 Q. I believe you testified that the</p> <p>14 reason why you selected Snyder for termination</p> <p>15 was, you mentioned something about personal 12:34:03</p> <p>16 issues and that he got sick and he had some</p> <p>17 money issues, and at the end of his employment</p> <p>18 he was angry. Do you recall saying that?</p> <p>19 A. Yes.</p> <p>20 Q. What did you mean by that? 12:34:14</p> <p>21 A. He was not getting along with</p> <p>22 members of the Police Department. There were</p> <p>23 problems between them. And just the general</p> <p>24 notion of the public, just dealings with them.</p> <p>25 His attitude was just not right or conducive 12:34:29</p>

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<p>1 Hesse</p> <p>2 to the community that we worked for.</p> <p>3 Q. Did you ever receive any</p> <p>4 complaints from any members of the public</p> <p>5 about Mr. Snyder? 12:34:39</p> <p>6 A. Yes.</p> <p>7 Q. How many times?</p> <p>8 A. I don't know, I don't recall.</p> <p>9 Q. Did you receive it in writing?</p> <p>10 A. No. 12:34:43</p> <p>11 Q. Verbally?</p> <p>12 A. Yes.</p> <p>13 Q. Anybody else there when you</p> <p>14 received complaints about Mr. Snyder verbally?</p> <p>15 A. I don't know. 12:34:49</p> <p>16 Q. Who complained about Mr. Snyder?</p> <p>17 A. I don't remember names.</p> <p>18 Q. When did you receive those</p> <p>19 complaints?</p> <p>20 A. I guess towards the end of 2005 12:34:54</p> <p>21 specifically.</p> <p>22 Q. Do you recall when in 2005?</p> <p>23 A. Maybe in the month of August.</p> <p>24 Q. What were the complaints?</p> <p>25 A. Just, you know, one guy in 12:35:05</p>	<p>1 Hesse</p> <p>2 about it?</p> <p>3 A. I don't recall if I did or not.</p> <p>4 Q. Did you take any notes of your</p> <p>5 conversation with the civilian who came in to 12:36:22</p> <p>6 make the complaint?</p> <p>7 A. No, he didn't want to put it in</p> <p>8 writing, he said no.</p> <p>9 Q. I am asking whether you put it in</p> <p>10 writing? 12:36:31</p> <p>11 A. No.</p> <p>12 Q. I assume you didn't address it</p> <p>13 with Snyder and Fiorillo; you took no steps to</p> <p>14 discipline them?</p> <p>15 A. No. 12:36:38</p> <p>16 Q. Any other complaints about Snyder</p> <p>17 from members of the public?</p> <p>18 A. Not that I specifically recall.</p> <p>19 Q. And is there anything that you</p> <p>20 could think of that would refresh your 12:36:48</p> <p>21 recollection?</p> <p>22 A. No, just my observations.</p> <p>23 Q. Did you ever receive anything in</p> <p>24 writing from -- anything negative about Snyder</p> <p>25 from anybody in the public? 12:36:59</p>
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<p>1 Hesse</p> <p>2 particular he came up to me and said that --</p> <p>3 he didn't know the officer's names, but he</p> <p>4 described Snyder and Fiorillo specifically,</p> <p>5 and he said, you know, I am walking down the 12:35:19</p> <p>6 street and it was late, it was dark, and I</p> <p>7 came around a bush, the two cops were standing</p> <p>8 there. He said they, in his words, they</p> <p>9 attacked him because they thought that he was</p> <p>10 urinating in a bush. 12:35:37</p> <p>11 Meanwhile he was just walking</p> <p>12 around the corner and that they roused him,</p> <p>13 they threw him in the bushes. I don't even</p> <p>14 remember his name, but I asked him do you want</p> <p>15 to put it in writing. He stated no, and that 12:35:51</p> <p>16 was it. I didn't even bring it to their</p> <p>17 attention at the time.</p> <p>18 Q. So just let me understand this. A</p> <p>19 civilian claimed that he was roughed up,</p> <p>20 attacked, thrown in the bushes by Mr. Snyder 12:36:05</p> <p>21 and Mr. Fiorillo, and you didn't even address</p> <p>22 it with them; is that correct?</p> <p>23 MR. CONNOLLY: Objection.</p> <p>24 A. Yes. Correct.</p> <p>25 Q. Did you speak to Chief Paradiso 12:36:14</p>	<p>1 Hesse</p> <p>2 A. I don't recall. I don't know if</p> <p>3 anything is in his file.</p> <p>4 Q. Which police officers was he not</p> <p>5 getting along with? 12:37:04</p> <p>6 A. I believe there was -- well, let's</p> <p>7 see. There would be Ty Bacon. There would be</p> <p>8 Rich Bosetti, Gary Bosetti, Walter Muller. I</p> <p>9 believe Paul Carollo had some issues with him.</p> <p>10 I don't know about any others right now. 12:37:20</p> <p>11 Q. Do you know why they were not</p> <p>12 getting along?</p> <p>13 MR. CONNOLLY: Objection.</p> <p>14 A. Specifically no, not really.</p> <p>15 Q. Generally? 12:37:38</p> <p>16 A. Generally no.</p> <p>17 Q. Did it have anything to do with</p> <p>18 the Halloween incident?</p> <p>19 A. It could.</p> <p>20 Q. You don't know one way or the 12:37:43</p> <p>21 other?</p> <p>22 A. No.</p> <p>23 Q. Now going back to, I believe you</p> <p>24 mentioned Walter Muller. Is Mr. Muller a</p> <p>25 friend of yours? 12:37:59</p>

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<p>1 Hesse</p> <p>2 A. Yes, we are friends.</p> <p>3 Q. Did you ever travel with</p> <p>4 Mr. Muller?</p> <p>5 A. Sure. 12:38:03</p> <p>6 Q. Did you ever go fishing together?</p> <p>7 A. Yes.</p> <p>8 Q. Did you ever go out socially with</p> <p>9 the families?</p> <p>10 A. Yes. 12:38:10</p> <p>11 Q. And I want to go back to the</p> <p>12 incident with Dr. Guida that you testified to</p> <p>13 before. You testified after the incident you</p> <p>14 yelled at the group of officers; is that</p> <p>15 correct? 12:38:27</p> <p>16 A. Yes.</p> <p>17 Q. Who was in that group?</p> <p>18 A. Lappena which was a dock master.</p> <p>19 Fiorillo. I can't think of his name, Matt</p> <p>20 O'Malley who happens to be a Suffolk County 12:38:40</p> <p>21 police officer. I don't remember who else was</p> <p>22 there.</p> <p>23 Q. Why did you yell at them?</p> <p>24 A. I just didn't like the way the</p> <p>25 call went and the actions that they took. I 12:38:59</p>	<p>1 Hesse</p> <p>2 A. At this time right now I don't</p> <p>3 remember.</p> <p>4 Q. Fiorillo ever tell you that it was</p> <p>5 Muller who struck somebody? 12:39:54</p> <p>6 A. No. Not until this.</p> <p>7 Q. Did you write up Fiorillo for</p> <p>8 putting Walter Muller in a head lock?</p> <p>9 A. No.</p> <p>10 Q. I believe you testified that 12:40:07</p> <p>11 Muller was not intoxicated, did you testify to</p> <p>12 that?</p> <p>13 MR. CONNOLLY: Objection.</p> <p>14 A. I don't know either way if I did</p> <p>15 or not. 12:40:16</p> <p>16 Q. Do you whether he was intoxicated?</p> <p>17 A. I don't believe he was.</p> <p>18 Q. Did you take a breathalyzer?</p> <p>19 A. No.</p> <p>20 Q. Did you ask him if he was 12:40:23</p> <p>21 intoxicated?</p> <p>22 A. No.</p> <p>23 Q. If Fiorillo actually witnessed</p> <p>24 Muller punch his girlfriend or was told that</p> <p>25 Muller had punched his girlfriend, would it be 12:40:36</p>
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<p>1 Hesse</p> <p>2 think they should have been a little more</p> <p>3 aware of what was going on around them before</p> <p>4 they just jumped into a melee.</p> <p>5 Q. Do you recall what you said to 12:39:09</p> <p>6 them about that?</p> <p>7 A. Specifically no.</p> <p>8 Q. Did you write anyone up for the</p> <p>9 incident?</p> <p>10 A. No. 12:39:15</p> <p>11 Q. You didn't write up Kenny Lappena?</p> <p>12 A. No.</p> <p>13 Q. Did you ever ask Frank Fiorillo</p> <p>14 why he put Muller in a head lock if it was</p> <p>15 somebody else who punched their girlfriend? 12:39:25</p> <p>16 A. You got to ask the question again.</p> <p>17 Q. The question is did you ever ask</p> <p>18 Frank Fiorillo why he would put Walter Muller</p> <p>19 in a head lock if it was Dr. Guida who punched</p> <p>20 his own girlfriend? 12:39:41</p> <p>21 A. I don't really recall.</p> <p>22 Q. You don't recall asking him?</p> <p>23 A. I just don't recall, no.</p> <p>24 Q. Do you know why he did that?</p> <p>25 MR. CONNOLLY: Objection. 12:39:50</p>	<p>1 Hesse</p> <p>2 improper for Fiorillo to put him in a head</p> <p>3 lock to restrain him?</p> <p>4 MR. CONNOLLY: Objection.</p> <p>5 A. Just based on somebody telling 12:40:43</p> <p>6 him, no.</p> <p>7 Q. How about if he witnessed it?</p> <p>8 A. Not necessarily.</p> <p>9 Q. Would it be necessarily improper</p> <p>10 for him to do it? 12:40:53</p> <p>11 A. Well you got to give me better</p> <p>12 circumstances than just punching his</p> <p>13 girlfriend. Was there a previous punch, was</p> <p>14 it after the fact, was it happening at that</p> <p>15 time. You are speculating on a lot of things 12:41:02</p> <p>16 here, I don't know.</p> <p>17 Q. I want to know if it -- if it</p> <p>18 would ever be improper -- well strike that.</p> <p>19 Would it ever be proper for Fiorillo to put</p> <p>20 somebody in a head lock that he had seen punch 12:41:15</p> <p>21 his girlfriend?</p> <p>22 MR. NOVIKOFF: Objection.</p> <p>23 MR. CONNOLLY: Objection.</p> <p>24 A. If it was a way of restraining him</p> <p>25 I guess it would be proper. 12:41:25</p>

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<p>1 Hesse</p> <p>2 Q. Does it matter whether Muller was</p> <p>3 an officer or wasn't an officer if the level</p> <p>4 of altercation required him to restrain the</p> <p>5 person? 12:41:37</p> <p>6 A. I don't think it would have</p> <p>7 mattered, no.</p> <p>8 Q. Just so I am clear, it was not the</p> <p>9 fact that Muller was an officer that you were</p> <p>10 upset with Fiorillo, was it? 12:41:50</p> <p>11 MR. CONNOLLY: Objection.</p> <p>12 A. I never said I was upset with</p> <p>13 Fiorillo.</p> <p>14 Q. You were upset with the way --</p> <p>15 A. It was a general with all of them 12:42:02</p> <p>16 jumping into a melee that was going on on the</p> <p>17 boat. And it really was directed at the</p> <p>18 civilian employee, the dock master Kenny</p> <p>19 Lappena, who happened to get hurt, and that is</p> <p>20 why I yelled at them as a group. 12:42:15</p> <p>21 Q. So sitting here today do you know</p> <p>22 why Fiorillo put Muller in a head lock?</p> <p>23 MR. CONNOLLY: Objection.</p> <p>24 A. I don't recall right now, no.</p> <p>25 Q. You testified in response to a 12:42:29</p>	<p>1 Hesse</p> <p>2 you recall that?</p> <p>3 A. Yes.</p> <p>4 Q. You testified that you found a</p> <p>5 pipe -- you found a pipe used for smoking 12:43:32</p> <p>6 marijuana, do you recall that?</p> <p>7 A. Yes.</p> <p>8 Q. Do you know whose pipe it was?</p> <p>9 A. No.</p> <p>10 Q. Did you attempt to find out whose 12:43:41</p> <p>11 pipe it was?</p> <p>12 A. I asked.</p> <p>13 Q. Did you check to see if there was</p> <p>14 any marijuana in the pipe?</p> <p>15 A. Yes. 12:43:51</p> <p>16 Q. Was there any marijuana in the</p> <p>17 pipe?</p> <p>18 A. No.</p> <p>19 Q. Was there any remnants of</p> <p>20 marijuana in the pipe? 12:43:54</p> <p>21 A. It looked like something was</p> <p>22 smoked out of it -- no.</p> <p>23 Q. That give you probable cause to</p> <p>24 search to see if there was drugs in the</p> <p>25 apartment? 12:44:07</p>
Page 912	Page 914
<p>1 Hesse</p> <p>2 question that Mr. Novikoff asked you about</p> <p>3 whether Frank Fiorillo -- whether you ever</p> <p>4 directed Frank Fiorillo to drive you to a</p> <p>5 residence for a non-police business. Do you 12:42:46</p> <p>6 recall that?</p> <p>7 A. Yes.</p> <p>8 Q. You testified that you never</p> <p>9 instructed him to do that; correct?</p> <p>10 A. No. 12:42:55</p> <p>11 Q. Did he ever actually drive you to</p> <p>12 a residence for a non-police business?</p> <p>13 MR. CONNOLLY: Objection.</p> <p>14 A. He may have.</p> <p>15 Q. Well the question before was he 12:43:02</p> <p>16 never instructed him, the question is now</p> <p>17 whether he actually drove him?</p> <p>18 A. He may have, I don't recall him</p> <p>19 ever driving me anywhere.</p> <p>20 Q. Do you recall him ever picking you 12:43:12</p> <p>21 up from a residence for non-police business?</p> <p>22 A. No.</p> <p>23 Q. You testified before about an</p> <p>24 incident where you went up to the apartment</p> <p>25 that there was the beer pouring incident, do 12:43:27</p>	<p>1 Hesse</p> <p>2 A. I didn't feel there was enough.</p> <p>3 Q. Did you search to see if there was</p> <p>4 any drugs in the apartment?</p> <p>5 A. No. 12:44:12</p> <p>6 Q. Why would you throw a marijuana</p> <p>7 pipe into the bay as opposed to taking it back</p> <p>8 to the police station?</p> <p>9 A. Because if I took it back to the</p> <p>10 police station it would be just sitting around 12:44:22</p> <p>11 until I could dispose of it. It was easier to</p> <p>12 just show the kid that I took it and threw it</p> <p>13 into the bay so he could no longer using.</p> <p>14 Q. What kid?</p> <p>15 A. I suspected it was this kid John 12:44:35</p> <p>16 that I wrote a summons to.</p> <p>17 Q. Did you write him a summons for</p> <p>18 possessing drug paraphernalia?</p> <p>19 MR. NOVIKOFF: Objection.</p> <p>20 A. No. 12:44:50</p> <p>21 Q. Did you record the incident</p> <p>22 anywhere in writing?</p> <p>23 MR. NOVIKOFF: Objection. What</p> <p>24 incident?</p> <p>25 Q. The fact that you found a 12:44:55</p>

<p style="text-align: right;">Page 915</p> <p>1 Hesse</p> <p>2 marijuana pipe and anything you may have done</p> <p>3 with it?</p> <p>4 A. No, I don't believe so.</p> <p>5 Q. Why not? 12:45:01</p> <p>6 A. I didn't think it was necessary.</p> <p>7 MR. CONNOLLY: Objection.</p> <p>8 A. You could buy those on any street</p> <p>9 corner.</p> <p>10 Q. But this one wasn't a brand new 12:45:14</p> <p>11 one bought on the street corner, you said</p> <p>12 there was evidence that marijuana was smoked</p> <p>13 in it; correct?</p> <p>14 A. I didn't say marijuana, I said</p> <p>15 anything. 12:45:23</p> <p>16 Q. Something?</p> <p>17 A. Yes.</p> <p>18 Q. Did you smell it?</p> <p>19 A. I smelled it.</p> <p>20 Q. What did it smell like? 12:45:27</p> <p>21 A. Burned ash.</p> <p>22 Q. Marijuana ash or cigarette ash?</p> <p>23 A. Not specifically that I remember.</p> <p>24 Q. Do you know what marijuana smells</p> <p>25 like? 12:45:35</p>	<p style="text-align: right;">Page 917</p> <p>1 Hesse</p> <p>2 A. Right.</p> <p>3 Q. Just so I am clear, you left drugs</p> <p>4 or strike that -- you left drugs in your</p> <p>5 drawer unsecured? 12:46:33</p> <p>6 MR. CONNOLLY: Objection.</p> <p>7 A. It was in the confines of the</p> <p>8 Police Department, yes.</p> <p>9 Q. But it was not locked?</p> <p>10 A. It was not locked. We didn't have 12:46:38</p> <p>11 locking cabinets at the time.</p> <p>12 Q. You left drug paraphernalia in the</p> <p>13 drawer as well?</p> <p>14 A. Yes, it was all in an evidence bag</p> <p>15 sealed in my drawer. 12:46:48</p> <p>16 Q. I want to go back to one other</p> <p>17 question, well a couple of questions, with</p> <p>18 respect to the incident where Paul Conway was</p> <p>19 delivering the beer, do you recall that?</p> <p>20 A. Yes. 12:47:04</p> <p>21 Q. Is there a certain age minimum to</p> <p>22 deliver beer or to sell beer?</p> <p>23 MR. NOVIKOFF: Objection.</p> <p>24 MR. CONNOLLY: Objection.</p> <p>25 Q. I will break it down. 12:47:11</p>
<p style="text-align: right;">Page 916</p> <p>1 Hesse</p> <p>2 A. Oh yeah.</p> <p>3 Q. Did you ever keep any drugs or</p> <p>4 drug paraphernalia in your drawer?</p> <p>5 A. Oh yeah. 12:45:45</p> <p>6 MR. CONNOLLY: Objection.</p> <p>7 Q. Did you lock that drawer every</p> <p>8 time -- was that drawer always locked?</p> <p>9 MR. CONNOLLY: Objection.</p> <p>10 A. No. 12:45:53</p> <p>11 Q. Why would you leave drugs or drug</p> <p>12 paraphernalia in your drawer?</p> <p>13 A. That is the only place that we had</p> <p>14 to store it.</p> <p>15 Q. Did you have an evidence box that 12:46:01</p> <p>16 was locked?</p> <p>17 A. We had a safe, 50/50 chance to get</p> <p>18 in it. It was already overwhelmed with drugs.</p> <p>19 Q. What do you mean by 50/50</p> <p>20 channels? 12:46:15</p> <p>21 A. The thing is probably from the</p> <p>22 1940s and when you turned the dial it doesn't</p> <p>23 always set right.</p> <p>24 Q. So you may not be able to get into</p> <p>25 it? 12:46:25</p>	<p style="text-align: right;">Page 918</p> <p>1 Hesse</p> <p>2 Is there an age minimum to deliver</p> <p>3 beer?</p> <p>4 MR. NOVIKOFF: Objection.</p> <p>5 A. I don't believe there is an age 12:47:17</p> <p>6 requirement for the delivery. But to sell is</p> <p>7 like a bartender or waiter or waitress I</p> <p>8 believe you have to be 18.</p> <p>9 Q. And Paul Conway was 20?</p> <p>10 A. I believe he was 20 at the time, 12:47:31</p> <p>11 yes.</p> <p>12 Q. And then there was some testimony</p> <p>13 about the fact that you did not instruct any</p> <p>14 of the plaintiffs not to issue citations to</p> <p>15 minors, do you recall that? 12:47:48</p> <p>16 A. Yes.</p> <p>17 Q. If you were to instruct an officer</p> <p>18 not to issue citation for minors, would you be</p> <p>19 violating any laws?</p> <p>20 MR. CONNOLLY: Objection. 12:47:59</p> <p>21 MR. NOVIKOFF: Objection.</p> <p>22 MR. CONNOLLY: Hypothetical.</p> <p>23 Q. Yes.</p> <p>24 A. I don't think I would be violating</p> <p>25 any laws. I think it would be an immoral 12:48:07</p>

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<p>1 Hesse</p> <p>2 order.</p> <p>3 Q. Do you recall an incident in 2005</p> <p>4 when Ed Carter brought a minor into the police</p> <p>5 station who he wanted to issue a summons to 12:48:39</p> <p>6 who was served alcohol at CJ's?</p> <p>7 A. No.</p> <p>8 Q. Do you recall an incident where</p> <p>9 Carter wanted to issue CJ's a citation for</p> <p>10 serving alcohol to a minor in the fall of 12:48:59</p> <p>11 2005?</p> <p>12 A. No.</p> <p>13 Q. Who owns McGuire's?</p> <p>14 MR. GOODSTADT: At which juncture?</p> <p>15 Q. In 2005? 12:49:14</p> <p>16 A. 2005, I think there is a couple of</p> <p>17 owners, Jimmy something.</p> <p>18 Q. Jimmy Betts?</p> <p>19 A. Yes.</p> <p>20 Q. Let's focus on Jimmy Betts -- 12:49:23</p> <p>21 MR. NOVIKOFF: Can I ask one</p> <p>22 question. I don't recall ever talking to</p> <p>23 him about McGuire's or anything involving</p> <p>24 McGuire's.</p> <p>25 MR. GOODSTADT: Well you talked to 12:49:34</p>	<p>1 Hesse</p> <p>2 bicycle after hours they needed a light?</p> <p>3 MR. NOVIKOFF: Objection.</p> <p>4 A. Yes, when it was dark out.</p> <p>5 MR. CONNOLLY: Assuming an 12:50:47</p> <p>6 operating light.</p> <p>7 MR. GOODSTADT: Yes.</p> <p>8 A. Flashlight.</p> <p>9 Q. They could have a flashlight?</p> <p>10 A. It has to be in a holder. 12:50:54</p> <p>11 Q. Just going back to the question</p> <p>12 that Mr. Novikoff objected to. In response to</p> <p>13 Mr. Novikoff's objection I just want to</p> <p>14 rephrase a question.</p> <p>15 Did there come a point in time in 12:51:42</p> <p>16 the summer of 2005 where Ed Carter wanted to</p> <p>17 issue a summons to Jimmy Betts for riding his</p> <p>18 bicycle after hours without a light?</p> <p>19 MR. CONNOLLY: Objection.</p> <p>20 A. No. 12:51:57</p> <p>21 Q. It didn't happen?</p> <p>22 A. I don't think so.</p> <p>23 Q. Is it possible that it happened</p> <p>24 and you don't recall it?</p> <p>25 MR. CONNOLLY: Objection. 12:52:03</p>
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<p>1 Hesse</p> <p>2 him about instructing officers not to</p> <p>3 issue summons when --</p> <p>4 MR. NOVIKOFF: Fine.</p> <p>5 Notwithstanding my overall objection. 12:49:41</p> <p>6 MR. GOODSTADT: Okay.</p> <p>7 Q. Jimmy Betts was the owner of</p> <p>8 McGuire's in 2005?</p> <p>9 A. I believe in 2005.</p> <p>10 Q. Do you recall an incident in the 12:49:53</p> <p>11 summer of 2005 where Carter wanted to issue</p> <p>12 Mr. Betts a summons for writing his bicycle</p> <p>13 after hours without a light?</p> <p>14 A. Do I recall that?</p> <p>15 MR. NOVIKOFF: Objection. That is 12:50:07</p> <p>16 kind of what I am objecting to starting</p> <p>17 the question off do you recall. If he</p> <p>18 answers no it can go both ways whether he</p> <p>19 didn't recall it or it never happened.</p> <p>20 So I object to the form of the question. 12:50:22</p> <p>21 Q. Would it be -- in the summer of</p> <p>22 2005 I know you said there were some changes</p> <p>23 in the rules with respect to the silly bicycle</p> <p>24 riding rules. In the summer of 2005 was there</p> <p>25 an ordinance where if somebody was riding a 12:50:38</p>	<p>1 Hesse</p> <p>2 A. I don't think so.</p> <p>3 Q. It is not possible?</p> <p>4 A. No, it didn't happen.</p> <p>5 Q. Did you ever accompany Ed Carter 12:52:14</p> <p>6 to an apartment on Bay Walk and Ocean Breeze,</p> <p>7 I believe those two streets cross each other?</p> <p>8 A. Yes, they do, they intersect.</p> <p>9 Q. Do you recall accompanying</p> <p>10 Mr. Carter to an apartment on that corner 12:52:34</p> <p>11 where there were under age drinkers?</p> <p>12 MR. CONNOLLY: Objection.</p> <p>13 A. No.</p> <p>14 Q. So you don't recall ever being in</p> <p>15 that apartment with Mr. Carter? 12:52:46</p> <p>16 A. No.</p> <p>17 Q. Just go back to the incident with</p> <p>18 the beer spilling, do you recall that</p> <p>19 incident?</p> <p>20 A. Yes. 12:53:10</p> <p>21 Q. Who did you say the leaseholder</p> <p>22 was?</p> <p>23 A. I didn't.</p> <p>24 Q. Do you know who the leaseholder</p> <p>25 was on the apartment? 12:53:17</p>

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<p>1 Hesse</p> <p>2 A. The leaseholder, no.</p> <p>3 Q. Do you know who the owner of the</p> <p>4 apartment is?</p> <p>5 A. The owner of the building. 12:53:21</p> <p>6 Q. Yes.</p> <p>7 A. Billy Svingos.</p> <p>8 Q. He was the owner in 2003, 2004,</p> <p>9 and 2005?</p> <p>10 A. Yes. 12:53:30</p> <p>11 Q. I thought you mentioned a John who</p> <p>12 was a leaseholder?</p> <p>13 MR. CONNOLLY: He didn't use the</p> <p>14 phrase leaseholder. I think the record</p> <p>15 would correct me if I am mistaken, 12:53:37</p> <p>16 renter.</p> <p>17 Q. Is it possible that there was a</p> <p>18 renter named John up there?</p> <p>19 A. I believe he was one of the</p> <p>20 renters. I believe it was a group of them. 12:53:48</p> <p>21 Q. So it was like a share house?</p> <p>22 A. Something like that, yes.</p> <p>23 Q. So just so I understand, one</p> <p>24 leaseholder and the leaseholder would sell out</p> <p>25 shares to other renters; is that how it works? 12:53:56</p>	<p>1 Hesse</p> <p>2 Paul Carollo?</p> <p>3 A. I don't recall if I was or not.</p> <p>4 Q. Who is Jason Maldonado?</p> <p>5 A. No idea. 12:55:08</p> <p>6 Q. Do you know who Robert Steinhauser</p> <p>7 is?</p> <p>8 A. No idea.</p> <p>9 Q. How about Brian Weinberg?</p> <p>10 A. No idea. 12:55:14</p> <p>11 MR. GOODSTADT: Give me one minute</p> <p>12 off the record just to review what I</p> <p>13 have.</p> <p>14 MR. NOVIKOFF: Go off the record.</p> <p>15 THE VIDEOGRAPHER: The time is 12:55:32</p> <p>16 12:57, we are off the record.</p> <p>17 (Recess taken.)</p> <p>18 THE VIDEOGRAPHER: The time is</p> <p>19 12:58, we are on the record.</p> <p>20 MR. GOODSTADT: I have nothing 12:57:16</p> <p>21 further at this time.</p> <p>22 EXAMINATION BY</p> <p>23 MR. NOVIKOFF:</p> <p>24 Q. Mr. Hesse, I think I have no less</p> <p>25 than three minutes worth of questions, maybe 12:57:23</p>
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<p>1 Hesse</p> <p>2 MR. CONNOLLY: Objection.</p> <p>3 A. Yes, kind of how it works.</p> <p>4 Q. This guy John, he was one of the</p> <p>5 renters? 12:54:04</p> <p>6 A. I believe he was, yes.</p> <p>7 Q. What summons did you write?</p> <p>8 A. I believe it was for noise. Noise</p> <p>9 violation.</p> <p>10 Q. So you didn't write any kind of 12:54:11</p> <p>11 summons with respect to spilling alcohol on</p> <p>12 the officers?</p> <p>13 A. No.</p> <p>14 MR. CONNOLLY: Objection.</p> <p>15 Q. You didn't write any kind of 12:54:23</p> <p>16 summons with respect to the fact that there</p> <p>17 was drug paraphernalia in the apartment?</p> <p>18 A. The pipe; no.</p> <p>19 Q. Who did you enter the apartment</p> <p>20 with? 12:54:50</p> <p>21 A. Tom Snyder and Kevin Lamm.</p> <p>22 Q. Anyone else?</p> <p>23 A. I don't recall if anybody else was</p> <p>24 there.</p> <p>25 Q. Ever been in that apartment with 12:54:58</p>	<p>1 Hesse</p> <p>2 more than three questions.</p> <p>3 You mentioned in response to Mr.</p> <p>4 Goodstadt that Mr. Snyder communicated to you</p> <p>5 about an illegal search and seizure by Lamm, 12:57:33</p> <p>6 do you recall that?</p> <p>7 A. Yes.</p> <p>8 Q. What did Mr. Snyder specifically</p> <p>9 say about that?</p> <p>10 A. He said that Kevin Lamm went up 12:57:37</p> <p>11 the back alley of CJ's behind the bar, came in</p> <p>12 the bar door and made a statement that he was</p> <p>13 going to -- he doesn't give a shit who you</p> <p>14 people are, he is going to get all of you. In</p> <p>15 reference to what I don't know, he went into 12:57:56</p> <p>16 the kitchen, he was looking for something. He</p> <p>17 went into the bathroom looking for something.</p> <p>18 And Tom Snyder said that he didn't agree with</p> <p>19 it. He even said something to Kevin about it.</p> <p>20 Q. So this was Snyder telling you 12:58:08</p> <p>21 that Lamm said in words and effect I don't</p> <p>22 give a shit who you are?</p> <p>23 A. Correct.</p> <p>24 Q. Now Mr. Goodstadt asked you a</p> <p>25 question with regard to showing -- well, Mr. 12:58:19</p>

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<p>1 Hesse</p> <p>2 Goodstadt asked you a question and you</p> <p>3 responded with regard to you showing Lamm,</p> <p>4 Snyder and Fiorillo at various times the file</p> <p>5 of the investigation? 12:58:35</p> <p>6 A. Yes.</p> <p>7 Q. I think Mr. Goodstadt would be</p> <p>8 objecting based upon your non-responsiveness,</p> <p>9 so let me ask you this question.</p> <p>10 Did you ever show Mr. Lamm a copy 12:58:44</p> <p>11 of the investigative file of the Halloween</p> <p>12 incident?</p> <p>13 A. Yes.</p> <p>14 Q. And Mr. Lamm didn't want to look</p> <p>15 at it? 12:58:51</p> <p>16 A. Correct.</p> <p>17 Q. At the time when you showed --</p> <p>18 where did you show Lamm this?</p> <p>19 A. In the police station.</p> <p>20 Q. Did Lamm at the time that you 12:59:02</p> <p>21 showed him make any reference to his belief</p> <p>22 that you were covering up anything?</p> <p>23 A. I don't remember specifically.</p> <p>24 Q. With regard to you showing</p> <p>25 Fiorillo the investigative file, let me ask 12:59:13</p>	<p>1 Hesse</p> <p>2 A. Like the biggest part of Jeannie</p> <p>3 Jaeger being attached by this individual.</p> <p>4 Q. Now the question I have is at this</p> <p>5 time when you showed Fiorillo the 13:00:06</p> <p>6 investigative file and he made those comments,</p> <p>7 did he make any comments to you that it was</p> <p>8 his belief that you were covering up</p> <p>9 something?</p> <p>10 A. No. 13:00:16</p> <p>11 Q. With regard to Snyder did you show</p> <p>12 him the investigative file?</p> <p>13 A. Yes.</p> <p>14 Q. Did he review it?</p> <p>15 A. Yes. 13:00:22</p> <p>16 Q. Where did you show it to him?</p> <p>17 A. In the police station.</p> <p>18 Q. Where did he review it?</p> <p>19 A. He was sitting at Chief Paradiso's</p> <p>20 desk. 13:00:30</p> <p>21 Q. What comment if any did he make to</p> <p>22 you concerning his review of the investigative</p> <p>23 file?</p> <p>24 A. I don't really recall to tell you</p> <p>25 the truth. 13:00:36</p>
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<p>1 Hesse</p> <p>2 you this so there is no objection, did you</p> <p>3 show Fiorillo the investigative file?</p> <p>4 A. Yes.</p> <p>5 Q. Where did you show it to him? 12:59:21</p> <p>6 A. In the same exact spot actually.</p> <p>7 Q. Was Mr. Fiorillo pleased or</p> <p>8 displeased with regard to what he read?</p> <p>9 MR. GOODSTADT: Objection.</p> <p>10 A. He seemed to be very happy to read 12:59:32</p> <p>11 it, and he said there was a lot of things that</p> <p>12 they didn't know.</p> <p>13 Q. They being whom?</p> <p>14 A. The three officers.</p> <p>15 Q. Let me ask you this then. What if 12:59:40</p> <p>16 anything did Mr. Fiorillo say to you upon</p> <p>17 subsequent to his reading of the investigative</p> <p>18 file concerning the fact that he looked at the</p> <p>19 file?</p> <p>20 MR. GOODSTADT: Objection. 12:59:49</p> <p>21 A. There was nothing derogatory other</p> <p>22 than he made some statements that he didn't</p> <p>23 know that certain things had transpired.</p> <p>24 Q. Certain things had transpired,</p> <p>25 what was he referring to? 12:59:58</p>	<p>1 Hesse</p> <p>2 Q. Did he make any reference to</p> <p>3 his -- did he make any statement that led you</p> <p>4 to believe that he believed that you were</p> <p>5 covering up something? 13:00:42</p> <p>6 A. Absolutely not, no.</p> <p>7 MR. GOODSTADT: Objection.</p> <p>8 MR. NOVIKOFF: I have nothing</p> <p>9 further.</p> <p>10 MR. CONNOLLY: I have one 13:00:57</p> <p>11 question.</p> <p>12 MR. NOVIKOFF: Don't open the</p> <p>13 door.</p> <p>14 EXAMINATION BY</p> <p>15 MR. CONNOLLY: 13:01:00</p> <p>16 Q. Earlier Mr. Goodstadt had asked</p> <p>17 you if you had any proof that plaintiffs or a</p> <p>18 plaintiff may have made blog entries. Do you</p> <p>19 recall being asked that question?</p> <p>20 A. Yes. 13:01:18</p> <p>21 Q. And what was your response?</p> <p>22 A. I had no proof.</p> <p>23 MR. GOODSTADT: Objection.</p> <p>24 Q. Did you ever form a belief based</p> <p>25 upon the contents of blog entries that one or 13:01:31</p>

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<p>1 Hesse</p> <p>2 more plaintiffs may have made blog entries?</p> <p>3 A. Yes.</p> <p>4 MR. CONNOLLY: Nothing further.</p> <p>5 MR. GOODSTADT: You expect me not 13:01:45</p> <p>6 to ask him which entries; there is now a</p> <p>7 new allegation that plaintiffs have made</p> <p>8 entries. I don't see how I can't ask him</p> <p>9 the question.</p> <p>10 MR. CONNOLLY: Go off the record. 13:02:14</p> <p>11 THE VIDEOGRAPHER: The time is</p> <p>12 1:03, we are going off the record.</p> <p>13 (Recess taken.)</p> <p>14 THE VIDEOGRAPHER: The time is</p> <p>15 1:07, we are on the record. 13:06:28</p> <p>16 MR. GOODSTADT: In lieu of an</p> <p>17 agreement that all parties have reached</p> <p>18 in response to -- strike that.</p> <p>19 In connection with the last</p> <p>20 question that Mr. Connolly asked 13:06:39</p> <p>21 Mr. Hesse about his belief as to whether</p> <p>22 any of the plaintiffs posted on the blog,</p> <p>23 we have agreed that plaintiffs will serve</p> <p>24 interrogatories requesting the identity</p> <p>25 of which blog posts Mr. Hesse believes 13:06:54</p>	<p>1 Hesse</p> <p>2 1:09. We are off the record.</p> <p>3 (Time noted: 1:10 p.m.)</p> <p>4 _____</p> <p>5 GEORGE HESSE</p> <p>6</p> <p>7 Subscribed and sworn to before me</p> <p>8 this ____ day of _____, 2009</p> <p>9</p> <p>10 _____</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>
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<p>1 Hesse</p> <p>2 were posted by the plaintiffs, or</p> <p>3 individually which plaintiff, and the</p> <p>4 basis of his belief that it was the</p> <p>5 plaintiff that he identifies who posted 13:07:06</p> <p>6 the blog.</p> <p>7 MR. NOVIKOFF: Fine.</p> <p>8 MR. CONNOLLY: So agreed.</p> <p>9 MR. GOODSTADT: And Mr.</p> <p>10 Novikoff is -- 13:07:15</p> <p>11 MR. NOVIKOFF: Well if those are</p> <p>12 the only two questions that you are going</p> <p>13 to pose to him I don't feel -- I don't</p> <p>14 think then I need to serve anything.</p> <p>15 MR. CONNOLLY: I take it we are 13:07:28</p> <p>16 done.</p> <p>17 MR. GOODSTADT: We are.</p> <p>18 THE VIDEOGRAPHER: The time is</p> <p>19 (Continued on next page.)</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p>1</p> <p>2 C E R T I F I C A T E</p> <p>3 STATE OF NEW YORK)</p> <p>4 : ss.</p> <p>5 COUNTY OF NEW YORK)</p> <p>6</p> <p>7 I, Philip Rizzuti, a Notary</p> <p>8 Public within and for the State of New</p> <p>9 York, do hereby certify:</p> <p>10 That GEORGE HESSE, the witness</p> <p>11 whose deposition is hereinbefore set forth,</p> <p>12 was duly sworn by me and that such</p> <p>13 deposition is a true record of the</p> <p>14 testimony given by the witness.</p> <p>15 I further certify that I am not</p> <p>16 related to any of the parties to this</p> <p>17 action by blood or marriage, and that I am</p> <p>18 in no way interested in the outcome of this</p> <p>19 matter.</p> <p>20 IN WITNESS WHEREOF, I have</p> <p>21 hereunto set my hand this 27th day of</p> <p>22 August, 2009.</p> <p>23</p> <p>24 _____</p> <p>25 PHILIP RIZZUTI</p>

1
2 ----- I N D E X -----
3 WITNESS EXAMINATION BY PAGE
4 GEORGE HESSE Mr. Novikoff 807, 925
5 Mr. Baptiste 839
6 Mr. Goodstadt 841
7 Mr. Connolly 930
8
9 ----- INFORMATION REQUESTS -----
10 DIRECTIONS: None
11 RULINGS: None
12 TO BE FURNISHED: None
13 REQUESTS: None
14 MOTIONS: None
15
16 ----- EXHIBITS -----
17 Hesse Exhibit 29, complaint, 807
18 Hesse Exhibit 30, blog posting, 883
19 P 962 to P 1265,
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21
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1
2 *** ERRATA SHEET ***
3 NAME OF CASE: CARTER VS. OCEAN BEACH
4 DATE OF DEPOSITION: August 17, 2009
5 NAME OF WITNESS: GEORGE HESSE
6 PAGE LINE FROM TO
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21 _____
22 GEORGE HESSE
23 Subscribed and sworn to before me
24 this ____ day of _____, 2009.
25 _____
(Notary Public) My Commission Expires: